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Government
Publication

STANDING COMMITTEE ON RESOURCES DEVELOPMENT
RESIDENTIAL RENT REGULATION ACT
WEDNESDAY, SEPTEMBER 24, 1986



STANDING COMMITTEE ON RESOURCES DEVELOPMENT

CHAIRMAN: Laughren, F. (Nickel Belt NDP)

VICE-CHAIRMAN: Ramsay, D. (Timiskaming NDP)

Bernier, L. (Kenora PC)

Cordiano, J. (Downsview L)

Epp, H. A. (Waterloo North L)

Knight, D. S. (Halton-Burlington L)

Pierce, F. J. (Rainy River PC)

Reville, D. (Riverdale NDP)

Smith, E. J. (London South L)

Stevenson, K. R. (Durham-York PC)

Taylor, J. A. (Prince Edward-Lennox PC)

Substitutions:

Caplan, E. (Oriole L) for Mr. Knight

Gordon, J. K. (Sudbury PC) for Mr. Taylor

Jackson, C. (Burlington South PC) for Mr. Stevenson

Also taking part:

Cooke, D. S. (Windsor-Riverside NDP)

Clerk: Decker, T.

Staff:

Richmond, J. M., Research Officer, Legislative Research Service

Witnesses:

From the Ministry of Housing:

Lavery, P., Director, Rent Review Policy Branch, Rent Review Division

Peters, F. H., Executive Director, Rent Review Division

From the Amherstburg Tenant Council:

Patrick, B., Vice-Chairman

Individual Presentation:

Maass, H.

From R. C. Pruefer Co. Ltd.:

Docherty, W., President

Individual Presentation:

Lyons, L.

From Kamsil Enterprises Ltd.:

Kamen, A.

Individual Presentations:

Hesse, E.

Mrs. Graham

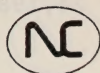
Weiss, E.

From the Dieppe Tower Tenants' Association:

Hillman, D., President

From Danzig Enterprises Ltd.:

Fitzpatrick, K. J., Executive Vice-President



STANDING COMMITTEE ON RESOURCES DEVELOPMENT

* * * * *

BEFORE:

Floyd Laughren	-	Chairman
Jack Pierce	-	Member
Jim Gordon	-	Member
Cam Jackson	-	Member
Leo Bernier	-	Member
Eleanor Caplan	-	Member
Joe Cordiano	-	Member
David Reville	-	Member
David Ramsey	-	Member
David Cook	-	Member

* * * * *

Sitting in the Ontario Room, Hilton Hotel,
Riverside Drive, Windsor, Ontario, on Wednesday,
the 24th day of September, 1986.

* * * * *

Nethercut & Co. Ltd.
185 Richmond St. W.
Toronto, Ontario
M5V 1V3

Per: S. Shambleau, CVR



1 ---Upon commencing at 1:00 p.m.

2 THE CHAIRMAN: The Resources
3 Development Committee will come to order. This is
4 almost at the end of our public hearing process. The
5 Ontario Legislature assigned to this Committee the task
6 of holding public hearings on Bill 51, and we have
7 been doing that for the last month or so. When we
8 have finished with the public hearings, we then
9 debate the Bill clause by clause and make any
10 amendments that the majority of the members of the
11 Committee feel are appropriate.

12 When the Bill has been so amended,
13 it would then be reported back to the Legislature
14 as a whole and dealt with on what we call third
15 reading.

16 A SPEAKER: Just a little louder,
17 please.

18 THE CHAIRMAN: I will try. So that
19 part of our task it has almost been completed now
20 in that we have almost finished the public hearing
21 process and the next stage is to debate every
22 clause of the Bill with the amendments that any
23 member can make an amendment to -- try to make an
24 amendment to the Bill with support of enough members
25 of the Committee.



1 The Committee is composed of --
2 everybody on the Committee is an MPP and are from
3 different parts of the province because some people
4 can get confused and think half the people up here
5 are members of the Ministry of Housing staff and
6 we wouldn't want to do that to the Ministry of
7 Housing staff. They are sitting to the right over
8 here. I will introduce members of the Committee to
9 you.

10 On my far right is Jack Pierce
11 from Rainy River, Northwestern Ontario. Next is
12 Jim Gordon from Sudbury. Next is Cam Jackson from
13 Burlington South, Leo Bernier from Kenora. I am
14 Floyd Laughren from Nickel Belt. Next to me is
15 Eleanor Caplan for Oriole riding in Toronto. Joe
16 Cordiano from Downsview in Toronto. David Reville
17 from Riverdale in Toronto, David Ramsey from
18 Timiskiming in Northeastern Ontario and David Cook
19 who most of you know I am sure from Windsor-Riverside.
20 That is our Committee.

21 The Minister of Housing, the
22 Hon. Alvin Curling has been with us most of the time.
23 He is attending a Cabinet meeting today so he cannot
24 be with us. We have a full schedule. We had to make
25 a decision at the beginning as to whether or not to



1 give people all sorts of time and not hear from
2 so many people or to restrict the length of time and
3 hear from as many people as wanted to get on the
4 agenda and that is what we decided to do.

5 So we divided the day up into 20-
6 minute sections. We know that is not long, but people
7 who have been making presentations across the province
8 have been extremely co-operative and have really
9 tried to stay within that 20-minute framework.

10 So we will start off with the first
11 group, the Amherstburg Tenants' Council, Bob Patrick.
12 Is Mr. Patrick here? Mr. Patrick if you would have
13 a seat and make yourself comfortable. Welcome to the
14 Committee. I would just say that the gentleman at
15 the table also is a Hansard Reporter, so that what-
16 ever is said is recorded for posterity.

17 Mr. Patrick, whenever you are ready
18 you can proceed.

19 MR. PATRICK: Thank you,
20 Mr. Chairman. I am here on behalf of the Tenants'
21 Council of Amherstburg representing 310 rental units
22 in the Town of Amherstburg which are not at the
23 present time covered by rent control legislation.

24 I will first deal with our negative
25 position on Bill 51 and specifically propose



1 amendments to the following elements of the Bill...

2 A SPEAKER: Is that mike on? We
3 can't hear you.

4 THE CHAIRMAN: Move the mike closer
5 to you, Mr. Patrick.

6 MR. PATRICK: Is it not on?

7 A SPEAKER: Don't you have a loud
8 speaker?

9 THE CHAIRMAN: Just go ahead. There
10 is no sound system in the room. Do you want to
11 turn around and sit over here at the side so people
12 can hear you?

13 MR. PATRICK: I should be at the
14 other end of the table. That is my best profile.

15 THE CHAIRMAN: Speak as loudly as
16 you can.

17 MR. PATRICK: Shall I start over?

18 THE CHAIRMAN: Yes, please.

19 MR. PATRICK: I am here on behalf
20 of the Tenants' Council of Amherstburg representing
21 310 rental units in the Town of Amherstburg which
22 are not at the present time covered by rent control
23 legislation.

24 THE CHAIRMAN: Will you try and
25 speak up?



1 MR. PATRICK: Can everybody hear
2 that?

3 SEVERAL SPEAKERS: No.

4 MR. PATRICK: Perhaps I should turn
5 my back to the Committee?

6 MR. JACKSON: At least for the negative
7 portion of your brief.

8 MR. PATRICK: I will first deal
9 with the negative position on Bill 51 and specifically
10 propose amendments to the following elements of the
11 Bill:

12 Schedule A; the formula for calculating
13 the residential complex cost index. Section 89,
14 clause 1, phasing in of certain amounts that are
15 components of the total rent increases. Section 81,
16 clause 3, apportioning of rents charged to achieve
17 equalization. Section 52, clause 1(b), filing of
18 rent information for rent registry.

19 Can you hear me now?

20 SEVERAL SPEAKERS: Yes.

21 MR. PATRICK: Firstly, we propose
22 that Schedule A be amended to read as follows:

23 "The formula for calculating
24 the residential complex cost
25 index for the purpose of clause



1 68(1) (b) is the total percentage
2 increase in the three year moving
3 average of the building operating
4 cost index rounded to the nearest
5 one-tenth of one per cent. The
6 building operating cost index
7 shall be constructed in accordance
8 with the weighting and components
9 set out in the prescribed table
10 with the weighting adjustment
11 annually in relation to changes
12 based on a three year moving
13 average in the components."

14 Our argument for this amendment:

15 "The proposed amendment to
16 Schedule A eliminates the arbitrary
17 2 per cent in the original formula
18 which is unrelated to any landlord
19 cost and provides a guideline that
20 is based totally on operating costs.

21 Under this amended formula,
22 if all costs dropped over a three
23 year period and the building operating
24 cost index became zero or a negative
25 number, the guideline would be zero



1 and not the 2 per cent minimum
2 provided by the present formula."

3 In my submission I illustrated a table. I will
4 not go through that table, but I would like to
5 explain the 6 per cent crossover formula was apparently
6 developed by the Rent Review Advisory Committee to
7 satisfy a policy statement of the Minister to provide
8 a guideline slightly higher than the rate of inflation
9 when inflation is low and slightly lower than the
10 rate of inflation when inflation is high.

11 What is wrong with establishing
12 a guideline based on actual economic conditions?
13 If the costs go up, the rents go up. If costs do not
14 change, the rents do not change. If costs go down,
15 rents go down.

16 Secondly, we propose amending section
17 89, clause 1 to read as follows:

18 "An order made under this part
19 may provide for the phasing in over
20 more than one year in the prescribed
21 manner of any amount that is
22 included (as a component of the total
23 permitted rent increase)
24 for the purpose of,
25 (a) eliminating a financial loss or



1 an economic loss the landlord has
2 experienced or will experience.

3 (b) achieving equalization of
4 rents charged for rental units within
5 a residential complex; or

6 (c) raising the gross potential
7 rent for a residential complex to the
8 level where the rent is no longer
9 a chronically depressed rent within
10 the meaning of section 88.

11 And where provision is made
12 for such phasing in, the Minister
13 shall specify in the order the phased
14 in amount for the initial year and
15 method of calculating the amount for
16 any subsequent year or years in which
17 the phased in amount is applicable."

18 We have added this:

19 "In the event that two or more of
20 (a), (b), or (c) are applicable con-
21 currently, the Minister shall limit
22 the phased in amount to one condition
23 for the period necessary to satisfy
24 that condition before phasing in the
25 amounts to cover the second or third



1 conditions separately for the
2 periods necessary to satisfy their
3 respective conditions."

4 Our argument for this amendment is as follows:

5 (a) represents a 5 per cent increase
6 as provided by section 76, clause 3;

7 (b) represents a 5 per cent increase
8 as provided by section 79, clause 4;

9 (c) represents a 2 per cent increase
10 as provided by section 88, clause 2.

11 "Approval of the above three
12 conditions at the same time would
13 represent an exorbitant increase
14 of 12 per cent over the guideline
15 and force a severe hardship to the
16 tenant.

17 The proposed amendment limits
18 the tenant's maximum annual rent
19 increase to 5 per cent over the guide-
20 line and provides the landlord full
21 recovery of his awarded increases
22 but on a delayed payment schedule."

23 If I am going to shout I am going to have to have
24 some water if you will pardon me for just a moment.

25 Our third amendment is to section



1 81, clause 3 and we propose to amend it to read as
2 follows:

3 "Where the Minister is satisfied,
4 in an application made under this
5 section, that the rents ought to
6 be equalized, the Minister shall
7 set the rent that may be charged for
8 any rental unit so that the landlord
9 may achieve equalization of the
10 rents charged for similar rental
11 units within the residential complex..."

12 We have added:

13 "...without affecting the total
14 rent revenue from the building, but
15 the amount of rent increase that is
16 attributable to the equalization in
17 respect of any rental unit shall not
18 exceed 5 per cent of the maximum
19 rent that was chargeable for that
20 rental unit in the twelve month
21 period immediately preceding the date
22 or dates of the rent increase."

23 We have added without affecting the total rent
24 revenue from the building to clarify the language
25 to assure that equalization of rents charged for



1 similar units within the same residential complex is
2 limited to the average of rents and not allowed on the
3 highest rent charged for similar units.

4 We shall now deal with our positive
5 position on Bill 51 and specifically state opposition
6 to any revision which changes the intent of the
7 following sections: section 68, clause (1) (a)
8 maximum increase without application, which provides
9 for a rollback of all rent increases in excess of
10 4 per cent received before the first day of January,
11 1987 retroactive to the first day of August, 1985.

12 Section 70, clause 3 deals with the
13 provision that the landlord is to repay excess rate
14 or bring application for rent review under section
15 71. Clause 4 of that same section provides for
16 tenant action where the landlord fails to comply
17 with clause 3. Section 72 we propose-- this deals
18 with financing costs no longer borne which we would
19 not like to lose and section 75, clause 2 provides
20 for an 80 per cent reduction for capital expenditures
21 previously allowed.

22 We recognize that Bill 51 is full
23 of compromise and requires a great deal of fine-tuning.
24 However, an improved Bill 51 incorporating the valid
25 recommendations of the many witnesses that have come



1 before this Committee would be a welcome start
2 and is needed now. The Standing Committee on
3 Resources Development is urged to
4 recommend that the legislature has the highest
5 priority to passage of this much needed and long
6 awaited legislation.

7 Thank you, Mr. Chairman, and members
8 of the Committee for allowing the Tenants of
9 Amherstburg the opportunity to present their views
10 on this critical issue.

11 THE CHAIRMAN: Mr. Patrick, thank
12 you very a focused and very specific presentation.
13 That is the kind that is helpful to the Committee.
14 A couple of members have already indicated they have
15 some questions. Mr. Reville.

16 MR. REVILLE: Thank you very much
17 for coming here today. The Amherstburg Tenants'
18 Council is very famous because we understand that
19 the Assistant Deputy Minister and some other folk
20 actually flew out to talk to you and you probably
21 knew more about Bill 51 than anybody else in the
22 country at the time. So clearly your comments are
23 worth paying close attention to. You have suggested
24 that we first of all amend the guideline and I
25 like your suggestion. I did a bit of calculation



1 on the guideline that is recommended in the Bill,
2 and the 2 per cent of the guideline formula over a
3 course of some years and compounded works out to a
4 heck of a lot of money and I can't see a justification
5 for it. Your notion I guess is that once we figure
6 out the building operating cost index and then work
7 it out over three years, that should be the guideline.
8 Am I correct?

9 MR. PATRICK: This is true.

10 MR. REVILLE: So that in 1987 your
11 proposal would generate a rent increase of about
12 4.8 per cent whereas the government's proposal would
13 generate a rent increase of about 5.2?

14 MR. PATRICK: That is possibly true.
15 I haven't got those figures in front of me.

16 MR. REVILLE: As a matter of interest,
17 if you had a \$500 a month apartment and you added
18 2 per cent a year for ten years, that is \$7,010.04
19 that that tenant would pay on that 2 per cent amount.

20 MR. PATRICK: This is true. The
21 2 per cent is a permanent part of the formula.

22 MR. REVILLE: Right. You have made
23 some very useful suggestions about the timing of the
24 trigger of some other things in the Bill and I am
25 very interested in that.



1 THE CHAIRMAN: Mr. Reville, I wonder
2 if you would allow us to halt for a moment. We have
3 a microphone coming in with a sound system and I
4 think it would be appreciated by people. We will
5 take just a very short, one or two minute break here.

6 MR. REVILLE: I have a pretty loud
7 voice, Mr. Chairman. Can anybody hear me?

8 SEVERAL SPEAKERS: No.

9 MR. JACKSON: Does anybody want
10 to hear him?

11 ---Short Recess

12 MR. REVILLE: Many years in a
13 Church choir did this for my voice.

14 THE VICE-CHAIRMAN: It is incredible.

15 THE CHAIRMAN: Go ahead.

16 MR. REVILLE: I hope nobody could
17 hear that. It's from the north, you know.

18 What you have suggested is that
19 an increase above the guideline for financial or
20 economic loss for equalization and/or for chronically
21 depressed should not all operate at the same time.

22 MR. PATRICK: True.

23 MR. REVILLE: Earlier on in the
24 hearings I suggested, and particularly in the case
25 of equalization which doesn't generate anymore money



1 for the landlord, that we should move an amendment
2 that would not allow an equalization readjustment in
3 those years when the landlord was already going to
4 rent review which would have somewhat the same
5 effect as your suggestion. Have you got any comment
6 on that?

7 MR. PATRICK: That is a move in the
8 right direction. I would still like to see it limited
9 to only one condition at a time.

10 MR. REVILLE: You are worried about
11 the starting of increases...

12 MR. PATRICK: We are looking at the
13 worst scenario where it is possible that all three
14 conditions could apply at the same time.

15 MR. REVILLE: In which case you would
16 get the 12 per cent or more?

17 MR. PATRICK: Correct.

18 MR. REVILLE: Yes. Well, I think you
19 have made a very good suggestion and I thank you for
20 doing that. I should tell you that when I made the
21 suggestion about not allowing equalization during
22 a time when rent review was being sought, that was
23 just a suggestion and I had no notion of whether the
24 Committee would support such an amendment. So it is
25 important that you have said what you have said to



1 us today.

2 MR. PATRICK: Thank you.

3 MR. REVILLE: Thank you. Thank you,
4 Mr. Chairman.

5 THE CHAIRMAN: Mr. Jackson.

6 MR. JACKSON: Thank you, Mr. Chairman.

7 I too would like to thank you for your presentation.

8 It is very clear and it is always appreciated when you
9 put it in the form of how you would like the amendments
10 to actually occur.

11 My question, Mr. Chairman, is to the
12 Ministry staff and if they could please advise us
13 since there are about 140 amendments coming to this
14 Bill, could you please advise us at this time if
15 any of the four amendments in part or in full are
16 being considered by the Ministry for amendment to
17 be presented to us some time in the next three weeks?

18 THE CHAIRMAN: Dr. Lafferty?

19 DR. LAFFERTY: Of the amendments we
20 are bringing forward, they do not deal with the
21 specifics or do not enact the specific suggestions
22 being made here today.

23 MR. JACKSON: Is it fair to say that
24 given that those amendments were generated in part
25 through discussions by the RRAC committee, that to your



1 knowledge these issues are not being circuited to
2 you from the RRAC committee for your consideration?

3 DR. LAFFERTY: Well of the suggestions
4 made, the suggestion on 81(3) is in fact -- reflects
5 the actual effect of the existing Act. That is, the
6 equalization should not in any way affect the total
7 rent of the building. So then there would be no need
8 for an amendment. With regard to the RCCI
9 formula, the Rent Advisory Committee has obviously
10 advised us on the formula in the legislation and
11 with regard to the phase-in, that is being raised and
12 to my knowledge has not been refused -- reviewed
13 by the Advisory Committee.

14 MR. JACKSON: If I may, Mr. Chairman,
15 I would like to go back to 81(3) and perhaps you
16 could give a more fuller understanding to both
17 myself and Mr. Patrick as to why in your opinion
18 81(3) in the proposed legislation is similar to the
19 81(3) recommendation that Mr. Patrick has made
20 to us. Perhaps that requires a little more clarification.
21

22 MR. PATRICK: Mr. Chairman, if I
23 may, Mr. Jackson, I think all we have done in our
24 proposed amendment is to clarify the language to
25 assure that indeed we are going to have an average



1 rather than equalizing on the highest of the rents.

2 Again, if I may, I have got an example
3 here that I would like to question the Ministry
4 representatives about. This may be an exaggerated
5 situation, but in this particular case I have got a
6 sixplex here and the highest rent is not achieved
7 by equalization. Does that individual then get a
8 reduction in rent? If I may give the example to the
9 Ministry to look at ...

10 MR. REVILLE: Have them write you a
11 cheque while you are there.

12 THE CHAIRMAN: Mr. Pierce?

13 MR. PIERCE: I think we should have
14 the example for Hansard as well as members of the
15 Committee.

16 THE CHAIRMAN: Is it a complicated
17 document?

18 MR. PATRICK: Not really. It is
19 just done roughly. I can have it copied and submitted,
20 but if you would like me to run through it, I would
21 be happy to do so.

22 MR. PIERCE: It wouldn't hurt.

23 THE CHAIRMAN: Why don't you try
24 that.

25 MR. PATRICK: The example I have, I



1 have listed the current monthly rent for one through
2 six units. Unit 1 is renting at \$675 a month. Unit
3 2, \$700 a month. Unit 3, \$725 a month. Unit 4,
4 \$750 a month. Unit 5, \$775 a month and Unit 6,
5 \$800 per month. That is a total monthly revenue
6 for the building of \$4,425 which of course is the
7 total of those six monthly figures.

8 The first year guideline that I
9 propose is 5.1 per cent and that guideline increase
10 represents \$225 a month increase in building revenue.
11 So that the new building revenue is \$4,650. Now you
12 divide that by the six units and your average becomes
13 \$775.

14 When you put \$775 and compare that
15 to the Unit 1 rent of \$675, you can see that with a
16 guideline of 5.1 and a 5 per cent adder for equaliza-
17 tion, it exceeds the limits of the Bill, so in the
18 first year the landlord would only be able to increase
19 Unit 1's rent from \$675 to \$743 which is 10.1 per cent.
20 Similarly on Unit 2, he is limited to a 10.1 per cent
21 so he can increase from \$700 to \$771. Unit 3 he is
22 allowed to go the full limit from \$725 to the average
23 of \$775 or only 6.9 per cent. Unit 4 from \$750 to
24 \$775 is legal, but with a 3.3 per cent increase. For
25 unit 5, from \$775 to \$775 is a zero increase. Now unit 6



1 is at \$800 and the new legal rent is \$775. The
2 question is does the tenant in Unit 6 get a \$25
3 a month rent reduction?

4 MR. JACKSON: Or is it classed as a
5 new illegal rent?

6 THE CHAIRMAN: A good specific
7 question.

8 DR. LAFFERTY: All right. In the
9 amendment list that we tabled with the Committee some
10 weeks ago, we have proposed amendments to both
11 sections 79 and 81 to allow for the eventuality
12 that would permit a rent to decrease in the course
13 of equalization so that that particular aspect will
14 be dealt with in amendment.

15 With regard to the overall rent
16 collected by the building, I remember in discussion
17 before this Committee when we made our presentation
18 last August and the wording in section 81 is similar
19 to that in 79. In section 81(1) in the third line
20 we refer to the Minister making an order apportioning
21 the total rent charged. What that means is that you
22 are taking the same total rent and re-distributing
23 it and that means you are not allowed to either
24 increase or decrease the amount of that rent that
25 the landlord gets in total. You merely apportion



1 it among the various units so as to achieve
2 equalization. So that we believe that the current
3 wording of the Act would reflect the desires that
4 are being put before us by the Amherstburg Tenants'
5 Council.

6 MR. JACKSON: Could I get the second
7 reference again, Mr. Chairman?

8 THE CHAIRMAN: Yes.

9 DR. LAFFERTY: 81(1), third line,
10 the phrase "apportioning the total rent charged."
11 So all you are doing is apportioning that total. You
12 are not changing the total.

13 MR. JACKSON: Did I misunderstand,
14 Mr. Chairman? Did you not say there was an amendment
15 coming?

16 DR. LAFFERTY: No, there is an amend-
17 ment coming which will be made to section 81 which
18 will allow for a rent reduction which would in the
19 six units in the example where the unit was being
20 charged above the amount, well above the amount of
21 the other units in the building, that an actual rent
22 decrease could be awarded at rent review and that
23 amendment to section 81 and a similar amendment
24 to section 79 will be forthcoming among the package
25 of amendments that will be put before you.



1 MR. JACKSON: Mr. Chairman, my final
2 question would be how do we distinguish that the rent
3 at \$800 was not an illegal rent?

4 DR. LAFFERTY: Well, under rent
5 review and every application being brought forward
6 for the setting of a rent, a person making the
7 decision, whether it be the Minister or the hearing
8 Board, is charged with the responsibility of inquiring
9 into the legality of rents. So if he discharges his
10 function properly, there will be an adequate investiga-
11 tion as to whether or not that \$800 rent occurred
12 by legal or illegal means. In this particular case
13 we are dealing with a building which is not under
14 control and therefore it would not be possible for
15 that rent to be illegal, but in the case of a building
16 that had been governed by rent control, there would
17 have to be an investigation into it to determine
18 whether or not that rent was legally being charged.

19 MR. JACKSON: Thank you.

20 THE CHAIRMAN: Thank you, Mr. Jackson.
21 Mrs. Caplan.

22 MRS. CAPLAN: I have several questions.
23 One is I would like to know from you what were the
24 size of the increases over the past perhaps three
25 years that your complex has experienced without the



1 benefit of rent. . .

2 MR. PATRICK: I can only speak of
3 my own personal situation and in 19 -- in September of
4 1985 I had an 18.5 per cent increase. In September of
5 1986 I had a 13.5 per cent increase. Is that an
6 indicator of ---

7 MR. CAPLAN: Yes. I guess the other
8 question I had related to your calculation of the
9 formula and the charge from the Minister to the RRAC
10 Committee which was protection for tenants in times
11 of high inflation with an acknowledgement of the need
12 for the maintenance provisions as being the rationale
13 for slightly higher than inflation in times of lower
14 inflation.

15 I have noted on your list here
16 that in fact as the guideline gets higher you
17 acknowledged that the increases get higher.

18 MR. PATRICK: This is true.

19 MRS. CAPLAN: And I wonder whether
20 there has been discussion of that because I recall
21 at the time when we had rent review and rent controls
22 began and over the past few years of high inflation
23 that it was exactly that point, that the tenants
24 required that kind of protection because inflation was
25 so high. I would have some concern with the point you



1 are making about how that would protect tenants in
2 times of higher inflation.

3 MR. PATRICK: Well, I think it is a
4 calculated risk. What we are looking at here is
5 when inflation is not high we have got a 2 per cent
6 factor baked into our rent that has no bearing
7 whatsoever on the landlord's costs and as was
8 mentioned a little earlier by Mr. Reville, consider
9 that over a ten year period compounded and I am...

10 MRS. CAPLAN: I guess the concern is
11 I have is, should we see an increase of inflation
12 or if we had high inflation today instead of low
13 inflation today, would your position be the same
14 because we are trying to ...

15 MR. PATRICK: The point I made was
16 that I feel the operating costs should be based on
17 the actual economic conditions.

18 MRS. CAMPLAN: And that inflation --
19 it shouldn't matter whether it is high or low?

20 MR. PATRICK: It certainly does
21 matter, but, you know, the same thing would apply to
22 any other commodity, not just housing. We don't ...

23 MRS. CAPLAN: The question that I
24 had is would this position be the same if we were
25 looking at double digit inflation today?



1 MR. PATRICK: I would say yes because
2 what we are doing is taking that calculated risk as
3 we are on food and clothing and everything else.

4 MRS. CAPLAN: All right.
5 The other question that I have is I understand that
6 you are familiar with the RRAC process. We have heard
7 from two representatives last evening in London, one
8 that was a landlord representative and one was a tenant
9 representative, who described this and I think the
10 Committee has heard it over and over again as
11 proposals from RRAC which were achieved and I actually
12 jotted it down as a delicate balance of the competing
13 interests of the landlords and the tenants, and I
14 thought of it myself and have heard the expression
15 of "dynamic equilibrium." You made some recommenda-
16 tions about things that should not be changed, and I
17 guess my question to you is whether or not if you
18 had to judge as the Committee is going to have to
19 judge with not being able to implement all of the
20 amendments you put forward or tried to as much as we
21 can respond without upsetting that delicate balance,
22 how important do you see the total package?

23 MR. PATRICK: Well, given the
24 complexity of the matter, I would like to congratulate
25 the RRAC Committee on the job they have done. When



1 you get into a controversial situation such as this,
2 it is bound to be compromising. As I indicated, I
3 feel that we have got to start someplace and if this
4 Committee incorporates the valid recommendations of
5 witnesses that you have heard in these hearings into
6 an improved Bill 51, that is an excellent starting
7 point.

8 MRS. CAPLAN: I guess my last question,
9 Mr. Chairman, relates to that comment as well and I
10 guess part of this ongoing process. The other thing
11 we heard last night was that the RRAC is ongoing,
12 that the dialogue is ongoing, and the impact of
13 the Bill which is always subject to future amendment
14 will be the kind of process where you have this on-
15 going kind of dialogue happening so that if a problem
16 occurs it can then be addressed by the group
17 recommending to the Minister.

18 I wonder whether you support that
19 or whether you see this as this going to be it for all
20 time?

21 MR. PATRICK: I would hope that this
22 would be a continuing program and that improvements
23 would come along as soon as possible.

24 MRS. CAPLAN: Thank you.

25 THE CHAIRMAN: Thank you. The



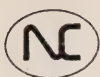
1 Committee has been joined in the last couple of
2 minutes by the gentleman on my immediate right,
3 Mr. Herb Epp, who is the MPP for Waterloo-North.
4 Mr. Cook.

5 MR. COOK: I was going to ask the
6 question about the rent increases that you have given
7 us. Can you tell us what the actual rents are
8 instead of percentages?

9 MR. PATRICK: Well, today I would
10 say a one-bedroom unit is running in the neighbourhood
11 of \$600, \$600 to \$700. A two-bedroom unit is running
12 \$800 to \$900 and a three-bedroom unit is \$1,000.

13 MR. COOK: Just so the Committee --
14 just for those Committee members that think of
15 Windsor as an area that has depressed rents
16 might be interested in knowing that Windsor now
17 has the third highest average rents in the entire
18 province, only behind Toronto and Ottawa, and for non-
19 rent controlled buildings we have the highest
20 percentage increases in any community in the entire
21 province in the last year. This is certainly one
22 of the areas which has experienced that.

23 I wonder if from reading local
24 newspaper articles you would agree with Mrs. Caplan
25 in her comment that there is a consensus. My reading



Toronto, Ontario

1 of the newspaper articles locally is that the land-
2 lords in Windsor-Essex certainly don't think there
3 is a consensus. They would like to get rid of
4 rent review altogether; certainly not extend it.

5 MR. PATRICK: I don't think I can
6 comment on that. I agree that there is certainly
7 a negative feeling amongst the landlords. The
8 tenants apparently, the apathy of the tenants is sad.
9 When you look at the schedule of today's hearings
10 and see that there only, I believe, about three
11 tenant delegations being heard and the rest are
12 landlords and there are a total of eleven witnesses,
13 that is an indicator right there that it leads
14 you to believe that unfortunately the tenants aren't as
15 strong as the landlords.

16 MR. COOK: Your group out in Amherstburg
17 has shown the way for the rest of the area. You have
18 an organization. It has been difficult to organize
19 and it is because we haven't traditionally had to
20 do that locally. We have had over the years with
21 a depressed economy, lower rents. I guess -- I am not
22 a regular member of this Committee, but I am just
23 here because the Committee is here in Windsor, but
24 I hope the Bill will pass soon, so that there will
25 be some protection for tenants like yourself. I do



1 caution you on the one recommendation, the cost no
2 longer borne section on capital cost in particular
3 is one area where tenants who are now under rent
4 control in this community are really getting ripped
5 of with the increased rents. (Applause). And I
6 don't think the current proposal in the legislation
7 goes nearly far enough to protect tenants in existing
8 rent controlled buildings to make sure landlords are
9 not using capital cost in order to increase profits.

10 MR. PATRICK: I think that our point
11 was we didn't want the intent lost.

12 MR. COOK: Correct.

13 MR. PATRICK: The actual language
14 in the Bill certainly can be improved, but please
15 don't lose that to us.

16 MR. COOK: No.

17 THE CHAIRMAN: Thank you. Perhaps
18 we had better make this the last question on this
19 presentation.

20 MR. GORDON: Yes. I will try and
21 incorporate two questions for you so you can answer
22 them one after the other. They won't be long.

23 The first one is how strongly do
24 you hold to your view that the landlords shouldn't
25 be getting that two per cent? As you are aware, we



1 have had submissions by people who are tenants who
2 sat on the RRAC Committee of course who agree with
3 that. Obviously it is part of, as they say, a delicate
4 balance and so forth. Would you like to see this
5 Bill go down rather than that 2 per cent being passed
6 on to the landlords?

7 MR. PATRICK: We need some kind of
8 legislation immediately. Actually you are asking
9 me to compromise.

10 MR. GORDON: Oh no. I am just
11 asking how strongly do you feel about what you just
12 said.

13 MR. PATRICK: The operating cost
14 increase should be based on actual economic
15 conditions as is any other commodity that we are
16 faced with today. You know, food, clothing. We
17 don't have any special formulas to protect against
18 high inflation. I think that is a way of life.
19 We have high inflation, we have to step up to it and
20 face it. For you to say that would mean the Bill
21 would go down to defeat is not what I am looking for.
22 I want legislation as quickly as possible.

23 MR. GORDON: The second part of
24 my question then is what would you consider a fair
25 rate of return for somebody who owned a building;



1 nine per cent, ten per cent, 15 per cent on their
2 investment?

3 MR. PATRICK: I have no quarrel with
4 the landlord. It is a two-way street. The landlord
5 is entitled to a fair rate of return and I think it
6 is adequately provided in this Bill as drafted.

7 MR. GORDON: Would you think that
8 they should get about the same as you get for say
9 a treasury bond?

10 MR. PATRICK: No, absolutely not.
11 Why should he risk capital when he can go into
12 something that is guaranteed and get the same rate
13 of return?

14 MR. GORDON: You think he should do
15 better than these investments you find in banks or
16 trust companies?

17 MR. PATRICK: This is true.

18 MR. GORDON: Thank you. (Applause).

19 THE CHAIRMAN: Mr. Patrick, on
20 behalf of the Committee thank you very much. We
21 were very impressed by your organizing skills and
22 your tenants in coming out to support you this
23 afternoon.

24 MR. PATRICK: Thank you.

25 THE CHAIRMAN: The next presentation,



1 the one scheduled for 1:20 has been cancelled.

2 Dr. Sotto couldn't stay.

3 The next presentation is by Mr. Hank
4 Maass. I hope I am pronouncing that correctly. Is
5 Mr. Hank Maass here?

6 MR. JACKSON: Can I ask what
7 Dr. Sotto was representing, was it a Town Council?

8 THE CHAIRMAN: Is it pronounced
9 Mr. Maass?

10 MR. MAASS: Yes, sir.

11 THE CHAIRMAN: Welcome to the Committee.

12 A copy of your presentation is being distributed
13 to the Members now.

14 MR. MAASS: Thank you.

15 THE CHAIRMAN: If you would proceed.

16 MR. MAASS: I don't know,
17 Mr. Chairman, my name is Hank Maass and I am a small
18 landlord in a single dwelling home in Toronto. I
19 gave the tenant a 60-day written notice and they
20 didn't agree with that. There has been a court case
21 on the 11th of April. I was told by the Hon. Judge
22 Suttcliffe to vacate by the 15th of May. I did not
23 agree with that. I am taking it to the Supreme
24 Court. It could take five, six, seven months and
25 cost me a lot of money and I feel under the Ontario



1 Human Rights Act I have some rights as well.

2 The reason feel I am not moving out
3 is it is a two-bedroom house in Etobicoke close to the
4 subway, three or four minutes walk from the subway.
5 I was only charged \$520 a month and that was one of
6 the reasons they are not moving out. I didn't even
7 know those people were living down there.

8 In 1982 I rented out to a Mr. Peter
9 Morley and his lease was finished in November, 1985.
10 In May 1985 he moved to Ottawa and sublet to Jewish
11 people but I didn't even know about it. When I went
12 down that weekend, Mr. Morely was moving out and the
13 other people were moving in and there was not much
14 I could do about it at that time.

15 In November the tenants told me, the
16 last tenant, he was willing to buy the house and would
17 I agree with that? So I said "Okay, you can have
18 it on a monthly basis." He told me it would be in
19 one or two month's time. That was only an excuse
20 to renew the lease again. At that time I put it up
21 4 per cent, from \$500 to \$520. By the way, the first
22 people had it for three years for \$500. I didn't
23 put up the rent because I knew the people and I
24 could go on my holidays to Florida, you name it,
25 the rent was always there.



1 Now, I feel that after close to
2 four years I should be able to put up the rent more
3 than \$520. Housing in Toronto is \$600, \$700, \$800.
4 I was wondering if I could get some help maybe from
5 you people; how do I go about it?

6 THE CHAIRMAN: Mr. Maass, I am not
7 a lawyer. There is one lawyer on the Committee, but
8 I am nervous about this presentation because it is
9 before the courts now as I understand it, is that
10 correct?

11 MR. MAASS: Yes.

12 THE CHAIRMAN: I think we would be
13 skating on pretty thin ice if we were to engage
14 in a debate with you on a matter before the courts
15 at the present time. I stand to be corrected.
16 Mr. Cordiano, am I ...

17 A SPEAKER: It wouldn't
18 be advisable.

19 THE CHAIRMAN: We are being advised
20 it would not be advisable for us to engage in this
21 because it is before the courts. There is a term
22 called sub judice which is we are not supposed to do that,
23 so I think we had best avoid a debate with you on
24 it, but you have presented us with your documentation
25 and it is a matter of record with the Committee now,



1 and I thank you for coming before the Committee, but
2 I really am cautioning the Members of the Committee
3 to avoid getting into a dialogue with you when it
4 is before the courts.

5 MR. EPP: Mr. Maass might want to
6 speak to one of the Members of the Ministry of
7 Housing who would be very helpful or could be very
8 helpful to you with respect to this matter.

9 MR. MAASS: I would appreciate it.

10 MR. EPP: It would be off the record,
11 of course.

12 THE CHAIRMAN: Why don't we leave it
13 at that?

14 MR. MAASS: Also I would like to
15 know why would it take three months or four months
16 before the transcript from the District Court is sent
17 the Divisional Court? The tenants had 30 days to
18 perfect that ...

19 THE CHAIRMAN: Why don't you have a
20 discussion over here? Thank you very much.

21 MR. MAASS: Thank you.

22 THE CHAIRMAN: Mr. Bernier.

23 MR. BERNIER: Could I ask the staff
24 is there anything in Bill 51 that would prevent this
25 happening again? There seems to be an injustice



1 here to this man.

2 THE CHAIRMAN: That is the kind of
3 thing we are trying to avoid, that kind of discussion
4 and comment. I think we should move on to the next
5 presentation.

6 MR. JACKSON: Mr. Chairman, is that
7 a ruling?

8 THE CHAIRMAN: Yes.

9 MR. JACKSON: I think it could be
10 asked in a way that doesn't reflect ...

11 THE CHAIRMAN: If you insist,
12 Mr. Bernier, ask your question.

13 MR. BERNIER: Is this being considered;
14 is this part of the whole package of Bill 51?

15 MR. PETERS: No.

16 MS. STRATFORD: I think your concerns
17 are mainly landlord and tenant general concerns
18 which are covered by different statutes, the
19 Landlord and Tenant Act, and I will attempt to give
20 some information about that statute, but Bill 51
21 does not address that area.

22 THE CHAIRMAN: Thank you.

23 The next presentation -- there has
24 been a change in the personnel involved or personali-
25 ties involved in the presentation. Rather than



1 L.P. Meyer and Associates with Mr. Meyer presenting,
2 it is Mr. Bill Docherty. Is Mr. Docherty here?

3 MR. DOCHERTY: Yes.

4 THE CHAIRMAN: Am I pronouncing it
5 correctly, Mr. Docherty?

6 Mr. Docherty, a copy is being
7 distributed of your summary.

8 MR. DOCHERTY: First of all, I had
9 expected to be out of town today and not able to
10 attend and that is the reason for the substitution.
11 Before commencing I would like you to know my
12 credentials in terms of housing. I have been in the
13 business since I was 15 or 16 years old in one form
14 or another. I started as a carpenter's apprentice in
15 the building industry indentured under the province
16 of Ontario and acquired a firm of my own from a man
17 who had been in business for 20 years before I came
18 to him and basically all of our experience was at
19 that time in residential shelter.

20 Since that time we have become
21 involved in all forms of residential shelter, high
22 rise, low rise, single family, land development,
23 industrial, commercial, et cetera. The hotel you
24 sit in today I built and developed in some of the
25 worst years that Windsor had ever seen. I have a keen



1 appreciation of Bill 51 and I have studied it
2 very carefully.

3 In 1976 I was Chairman of the
4 Ontario Home Builders' when the original rent control
5 Bill came into being and unfortunately for the
6 industry and the people of this province the only
7 thing that was done since 1976 was to reduce the
8 amount of rent that could be charged under the
9 Bill. There was no constructive legislation that
10 would in fact have any impact on the production of
11 shelter and what it has done and I have to go back
12 before we go forward at the risk of boring you, but
13 what it has done is drive the private industry out
14 of the shelter business and there are always mis-
15 statements of facts in your deliberations. Some come
16 from politicians, some come from industry representa-
17 tives and some come from tenants.

18 One of the biggest things is the
19 vacancy rate and I would like to clarify vacancy
20 rates for this Committee if they don't already know.
21 The vacancy rates that are given the highest credence
22 are those published by CMHC and CMHC vacancy rates
23 in the City of Windsor where StatsCan listed some
24 27,000 units in the metropolitan area only covered
25 16,000 of those units and I suggest to you that the



1 same situation is prevalent in the rest of the
2 province and I have great difficulties in understand-
3 ing how you people, and I understand this is an all-
4 party group, how you people begin to make a kind
5 of intelligent deduction with a vacancy rate that
6 only covers half the units and in terms of CMHC's
7 vacancy rates, and I am not attacking their rate I
8 am attacking the publicity given to it, they don't
9 canvass townhouses, they don't canvass units of less
10 than four, they don't canvass some low rise buildings
11 and, therefore, we know for a fact by CMHC's own
12 admission that in Windsor they surveyed 16,000 units.
13 Just how on earth do we expect to have a proper
14 registry of vacancy rate when we are only -- if Windsor
15 is an example -- only surveying half the units?

16 My friend Mr. Cook made another
17 statement while I was standing in the audience, and
18 I only got here a few minutes before because of a
19 crowded agenda, but however he talked about this city
20 being third highest in the province in rents and I
21 want to correct that right away. Don't have that
22 impression because this city has the lowest rent in
23 the province for bachelor units and bachelor units,
24 as you know, are an affordable item.

25 Now, after the meeting I will have a



1 chance to dialogue with Mr. Cook, who I have a chance
2 to dialogue with from time to time. I respect his
3 position. I respect his party's position, but the
4 problem is that all parties, whether they be
5 Conservative, Liberal or NDP, have done absolutely
6 nothing constructive in the ten years since this law
7 came into being except, as I say, drive private
8 enterprise out of the market.

9 Now, with respect to Windsor, where
10 I have a hands-on feeling and I had a hands-on feeling
11 in Chatham and a hands-on feeling in Kitchener and
12 during the recession or depression wherever you were
13 depending on its severity and in Windsor it was a
14 depression, I retreated from these areas and tried
15 to hold on in Windsor which I have managed to do to date.

16 The problem is split two ways. You
17 are bringing a Bill before the legislature which I
18 have studied very carefully and I hope for all the
19 money that is being spent on it by all parties that
20 somehow or other it makes it through more or less
21 in the form it is in, but based on the publicity and
22 some of the flyers I have seen to date, I have grave
23 misgivings as to whether it will make it through in
24 an effective form.

25 For that reason I would quarrel



1 firstly with the condition of bringing all units
2 under rent control. Rent control as I remember
3 as Chairman of the Ontario Builders' in '76 was a
4 Toronto-inspired law because of old ladies being
5 pushed out of houses and apartments where they
6 couldn't afford the rent, widows. That was the kind
7 of nonsense that went on and in the rest of the
8 province we didn't have the crunch that Toronto had,
9 but it was inspired and brought on by a government
10 seeking to maintain its control. It was a political
11 animal and I suggest to you today that rent control
12 still is a political animal. It is a highly volatile
13 subject and I am not without sympathy for those of
14 all parties that have to re-write it.

15 I understand the political volatility
16 of it, but when we brought it in as a temporary
17 measure in '76 and the industry had input, we told
18 you exactly what would happen then and that is where
19 we are at now. Splitting the bill and bringing it
20 in to cover those units which were tenanted since
21 1976 is without understanding or comprehension by
22 a person like myself who is in the industry. Most
23 of those units that were generated since 1976 were
24 generated at prices and for units that are far above
25 the need of subsidy; the people that inhabit these



1 units certainly don't need any subsidies. They
2 certainly don't need no help and part of our problem
3 today is very simply put that the wrong people are
4 getting the assistance. Rent control was to cover
5 a segment of the population for a temporary time
6 that were under duress and could not have affordable
7 housing. Most of the people beneficial to rent
8 control, a high percentage, don't need any subsidy.
9 They are not paying 28 per cent of their income.
10 Do an appraisal of an independent apartment building
11 under rent control, you will find that the average
12 income in there is paying somewhere between
13 15 and 17 per cent of his income.

14 Why? What for? Those of us who own
15 single family houses that is a reasonable amount to
16 pay, 28 per cent. So I say to you that to compound one
17 error with another, to bring forth a Bill now that
18 will encompass all units is bordering on lunacy
19 because that in itself will further -- add a further
20 deterrent to the development industry in terms of
21 creating units and unless you get private enterprise
22 back into the marketplaces we are dead, dead in the
23 water, because this province doesn't have the resources
24 whether the NDP, the Liberals or the Conservatives
25 are in power to fund the masses of housing that are



1 required.

2 The feds pushed it over to the
3 province because they couldn't afford it. Let's
4 call an ace an ace. the province has now pushed
5 it to the municipalities because they can't afford
6 it and in terms of affording it the taxpayers can't
7 afford it anymore.

8 Now I suggest to you to encompass
9 new buildings under rent control where the people can
10 afford the rents is not correct.

11 Secondly, in terms of the rent
12 control that came in in 1976, we had had higher and
13 higher interest rates. It was tougher and tougher
14 to build and as a result of that people needed
15 accommodation and you had to put a temporary lid
16 on maybe, but putting -- in putting the temporary
17 lid on now they are comfortable in there and interest
18 rates are back in the range of 10 per cent and you
19 can build a single family house to compete with a
20 rent control unit. Why surpress it further? Why
21 stop the incentive which made our country so great
22 to own your own house? Why move out of an apartment
23 you are getting for \$350 and have a house for about
24 \$400 or \$500.

25

A SPEAKER: How about \$280. I charge



1 \$280.

2 MR. DOCHERTY: In terms of what I
3 say about a single family house, we are producing
4 houses for \$68,000; 10 per cent down, cap. mortgage at 10 per
5 cent cap, utilities at 120 cap, taxes at 100 and
6 you can have a house for \$500 a month providing
7 you don't want a \$150,000 house and there is all
8 kinds of them in the marketplace that we sold over
9 the years as affordable housing under Home Plan,
10 under the 500,000, under all kinds of situations.

11 Now I know it is not popular and I
12 have heard that. The very outburst you heard is
13 the outburst you are going to have when Bill 51 goes
14 back. I wish you luck. I sincerely wish you luck
15 and I am -- you know, I have to find a way so if
16 in fact Bill 51 is cut to pieces I am still going to
17 stay in business. I am still going to fight. I am
18 still going to find a way, but that is the type of
19 emotionalism you are dealing with.

20 Now, I say to you in principle,
21 rent control has not solved anything. It has made
22 the problem worse and with all due respect to those
23 who support it the greatest I would like to look at
24 what can come in its place. How are we going to
25 write an end to it and the end being affordable



1 housing? Is there a way?

2 Before I go on I just want to check
3 with my friend.

4 In summary, what I give you was a
5 position I believe in and I didn't come here to
6 criticize, because I understand the problem of
7 the political explosiveness of this law and I under-
8 stand how minority parties are subjected and if we
9 go back in time the Conservatives in '76 had a
10 problem as the last election had a problem and
11 they have all been fought with rent control being
12 very highly volatile and I want to say to you on a
13 piece of paper you have before you I believe the
14 following:

15 1. A program that restores the
16 confidential of private sector.

17 2. A program that solves segregation
18 issues.

19 3. A program that directly addresses
20 persons and families who are not entitled to rental
21 subsidies and that subsidies are addressed to those
22 whose need is real.

23 4. A program based on the long-term
24 solution rather than reacting to crisis
25 situations with programs that interfere with the free



1 market.

2 I want to suggest to you the follow-
3 ing program, and I didn't give you a draft on it
4 because it is very simple, and I wanted to get to
5 a couple of the party caucuses but could never get
6 by and I will wind up and I am running overtime, am
7 I?

8 THE CHAIRMAN: It is all right.
9 It is fine.

10 MR. DOCHERTY: I will wind up and
11 I will answer any questions you have, but I will
12 wind up by saying very simply to you, the following
13 program:

14 I believe, having done it and I have
15 hands-on experience where the low cost sector or the
16 low affordable sector or the low income person can
17 be integrated into our community and until we come
18 up with a program that removes him from the ghettos,
19 the large densities of public housing, the shelter we
20 may have solved in part, but the socialization factor
21 we have not solved, only made it worse and there is a
22 very simple thing to do.

23 If people want out of rent control
24 and those people are landlords, then let them make
25 25 per cent of the units they control available to a



1 truly low income group and that group is a group that
2 I see from \$1700 to \$5,000 to \$6,000 a year and
3 truly pay 27 per cent of that income or 28 per cent,
4 whatever is acceptable. The numbers can vary.

5 On a typical building, and I will
6 pick a building and I will pick one of my buildings,
7 I will pick the Island View Towers which has 150
8 units, has a mix of two-bedrooms, one-bedrooms and
9 bachelors. The lowest priced bachelor's in Ontario,
10 Mr. Cook.

11 MR. COOK: It is difficult for
12 families to live in bachelor apartments.

13 MR. DOCHERTY: It may be difficult
14 for a family, but we are not only talking about
15 families. If your quarrel is only with mother-led
16 families and families that can't afford, that
17 is a different thing, but don't distort the statistics.
18 We are not the third highest priced. We are third
19 highest priced for three-bedrooms. We are not the
20 highest priced in the province, but however, I will
21 come back to it.

22 It is 150 units. I will take 25
23 per cent of that building and I will rent it to people
24 with low income characteristics and by low income
25 characteristics I mean their T-4 slip. I want their



1 T-4 slip and I will place that building under a
2 \$10,000 fine by the authorities if we don't adhere
3 to that 25 per cent, and if we don't audit every
4 tenant that goes in under that program and they
5 will pay 25 per cent of their income for rent, and
6 for the other 75 per cent and I will use a very
7 unpopular word, we opt out. We are out of rent
8 control.

9 We let the free market work. I
10 suggest to you that the people in this province
11 would have the benefit of non-segregated low cost
12 income housing on a basis and in such preponderance
13 that it would amaze you and then perhaps maybe we
14 could go back into some of the public housing that
15 I have built and others have built and take half
16 the density out because the province has no debt
17 against those units, cut the density in half and
18 make them truly good places to live and then maybe
19 start a sell-off program.

20 My program to you is very simple
21 and it is so simple it will work, because if landlords
22 truly want out of rent control, if that is what they
23 really want to do, then let them pay for it. Let
24 them create shelter for these people that are the
25 subject of rent control, but let the benefit only fall



1 to those that really need it and let those that can
2 afford it pay their way as you and I do and let's
3 not put a control on \$1,500 units or \$1,000 a month
4 units. That is ludicrous.

5 Now I suggest to you that it is
6 very simple, (a), 25 per cent of the units go to low
7 income and low income is from \$20,000 down. It is
8 audited, a government inspector goes into the field
9 and he can cover one fairly sizeable amount of
10 buildings and he walks in the front door and wants
11 to see the T-4's and wants to see the proof of those
12 people that are in there and it is auditable. If
13 he doesn't, let him be hit hard, \$10,000 minimum
14 fine. Then he can raise the other 75 per cent to the
15 market rent and then he has an investment that is
16 truly what some of us would do, it is the Robin Hood
17 theory; take from the rich and give to the poor,
18 but do it properly and do it with an audit and half of
19 the subsidies that we are paying now which will
20 eventually do us all in and those who are in
21 government here and those who see the figures know
22 what I am talking about.

23 The cost of shelter is truly becoming
24 unaffordable in terms of these subsidies. So thrust
25 it back to private enterprise, see if they will opt



1 out and you might solve the problem on a progressive
2 basis, on a constructive basis and not simply with
3 a law that sat ten years and the only thing that
4 happened to it was they kept pressing the amount down,
5 the pass-through amount.

6 Now you have a law that I commend
7 you for. I just have grave doubts as to what its
8 formal and final position will be having regard for
9 the political arena. I thank you.

10 THE CHAIRMAN: Thank you,
11 Mr. Docherty. (Applause)

12 Several members would like to ask
13 you some questions. Mr. Cook first.

14 MR. COOK: Just a couple of questions.
15 First of all, Mr. Docherty, I have told you before
16 that I am willing to meet with you and I know that
17 our housing critic is willing to meet with you at
18 any time. The first request for a meeting on this
19 type of thing came about a week ago. I don't know
20 about the other two parties, but with our party if
21 a request comes through we set up meetings. I find
22 it interesting, Mr. Chairman, the consensus
23 Mrs. Caplan talked about earlier doesn't seem to be
24 alive and well in this community but nonetheless I don't
25 know how your travels are going in the rest of the



1 province.

2 I would like to ask Mr. Docherty there
3 are a few landlords in this community, a couple of
4 rent review cases that I have had, one involving two
5 apartment buildings, Allandale and Merrydale where
6 the landlord asked for 29 per cent increase in rent
7 and only because of the rent review procedure it was
8 lowered to 5 per cent. The reason it was lowered
9 to 5 per cent was because that fellow was trying to
10 do was take from an investment and had failed,
11 another investment that had nothing to do with the
12 tenants at Allandale and Merrydale, and trying to
13 recover that money out of the tenants of those two
14 apartment buildings.

15 A SPEAKER: Here, here.

16 MR. COOK: Is that not a reason,
17 because there are landlords like that around that
18 we need laws like that to protect tenants?

19 MR. DOCHERTY: I would speak to that
20 in depth and the simplisticness and you and I have
21 a healthy understanding, my request originally went
22 to the five members of council that are NDP in
23 character in terms of affiliation and I didn't have
24 a response from any of them. Let's say four that
25 are committed and one that is so so. I don't intend



1 to mince words here because I think it is too vital
2 an issue to be political on and I will answer you to
3 the best of my ability and I did make the request
4 of several of your associates some time ago and got
5 no response. You were the only one and the date
6 hasn't been set yet, but I still leave that out to
7 you.

8 But secondly the issue you referred
9 to, and we will not name the individual but I know
10 clearly who you are referring to and I say this to
11 you; had you looked in depth at that man's position
12 and had you looked at how he lost his money you would
13 find that it was in the performance of building
14 another building and he got hurt very badly. He had
15 an investment in a commodity which some parties
16 refer to as a resource, but he owns it and it is not
17 a resource. It is a commodity and his ability to
18 charge a fair price for that commodity is inhibited
19 by a law that was a temporary stopgap. His investments
20 were solely and completely within the spectrum of
21 shelter and he relied on those being sound, sincere,
22 proper investments to which he had low mortgages on,
23 to which he maintained in a proper order, to which
24 were well located and affordable. He relied on those
25 as a bank to help him out in terms of times of need



1 and in fact some of the requests for increase was
2 to shore him up and keep him from becoming insolvent
3 so that he would lose everything.

4 Now he risked, and I understand that
5 he ...

6 MR. COOK: He did or the tenant?

7 MR. DOCHERTY: He risked his owner-
8 ship and unless you and I can agree on one thing, that
9 the landlord owns the building, then I can go forward
10 with the discussion. If you don't agree that the
11 landlord owns the building, then there is no basis to
12 my argument, but he owns the building and even if he
13 had got 29 per cent, David, those rents were still
14 affordable and had you audited the people that were
15 living in those buildings I defy them to come forward
16 as a unit, show their T-4 slips and tell me they are
17 paying more than 27 per cent of their income. That
18 is the test of rent control. Not to shelter people
19 who don't need shelter, but to shelter those that
20 truly need it, welfare, mother-led families, we have
21 people in subsidized housing who are paying \$600 and
22 \$700 a month in some cases because they elect to
23 live there for reasons best known to themselves.

24 Now in this particular case I say
25 to you certainly he has a right to pass through some



1 of those losses and attempt to recover it. It is
2 his investment. Because that investment that you have
3 rendered -- let me rephrase that -- that investment
4 that 1976 rendered unprofitable, - has no profit
5 to speak of, marginal return and even though the
6 units increase in value for replacement cost
7 they return a fraction of that in terms of a profit
8 and that is not right.

9 When you buy a stock and it goes
10 up you get the return. Nobody legislates that a
11 stock can't increase in value and that man invested in
12 housing, his life's work, and nearly was ruined by
13 it. I appreciate that you appeared for those tenants,
14 but you know, it seems to me to be most unfair that
15 when a person who dedicated their whole lives to
16 providing shelter gets into trouble that he can't
17 use his inventory and his resources to help bail him
18 out.

19 Now all of the money was not for that.
20 Only a very small portion. That is my answer to your
21 question.

22 (Fire alarm drill)

23 THE CHAIRMAN: We don't want to pursue
24 a rent review case.

25 MR. COOK: The point I am trying to



Toronto, Ontario

1 make is there are some landlords in this community
2 and I can point out other buildings where we have
3 been to rent review that prove beyond a shadow of
4 a doubt that there are landlords who rip-off the
5 tenants and that is why the regulation was brought
6 in because it has to protect to be fair to both
7 sides.

8 MR. DOCHERTY: David, the problem is.

9 MR. COOK: The ownership argument is
10 a bunch of garbage because the guy that owned the
11 building was trying to rip-off the tenants to
12 recover for an investment and that had nothing to do
13 with the tenants.

14 MR. JACKSON: He's got the front page
15 of the Windsor Star. Let's get going with this
16 hearing.

17 MR. DOCHERTY: Until you audit the
18 tenant as you have the landlord, you...

19 MR. COOK: I am not going to
20 institute a means test.

21 MR. DOCHERTY: don't know what
22 the affordability is. How do you know the people
23 are paying a fair proportion of their income for
24 rent? You don't know. You take that position and
25 that is wrong, David.



1 Audit those people. Do as I did.
2 Go into a building. I went through a building, I
3 went through 200 or 350 units and tried to find out
4 what percentage of that building, what the tenancy
5 was paying of their income. How many rent control
6 hearings have we conducted?

7 MR. OUELLETTE: None.

8 MR. DOCHERTY: We never conducted
9 one and we control sometimes as high as 3,000 units
10 and we have never been for it once, David, so I speak
11 truthfully. We audited 3 150 unit buildings
12 and we very carefully tried to find out what those
13 tenants are paying for their rent and I say once
14 more to you, sirs, 15 to 17 per cent in most cases.

15 We had, and I will give you this
16 little bit of data which you can keep in your travels,
17 we had about 900 senior citizen unit buildings, 900
18 units, and we had a standing policy that if rent was
19 truly unaffordable call us and we will cut a deal
20 for you. My manager will tell you that in those
21 years we had two calls of substance where we agreed
22 to set up appointments and review the party's
23 position with him. Upon telling them that we would
24 request that they bring with them their T-4 slips,
25 one of them evaporated. The other one came and



1 replaced him in a unit that we had under a government
2 program where we participated on what do you call it--
3 rent supplement. We replaced him and we got them
4 looked after. But as soon as we told anybody that
5 they had to bring their T-4 slip to verify, that
6 was the end of the complaint. Nobody wanted to
7 come forward.

8 So I say to you, Mr. Cook, as
9 honestly and sincerely as I can with all due respect
10 for your party's position it is a one-sided situation.
11 If the landlord be audited, then so let the tenant
12 be audited and if there is a means test for the
13 landlord then let there be a means test for the tenant.
14 That is all. (Applause).

15 THE CHAIRMAN: Okay, Mr. Cook?

16 MR. COOK: Not really, but I am not
17 going to continue to argue.

18 THE CHAIRMAN: Mr. Jackson.

19 MR. JACKSON: Mr. Docherty and
20 Mr. Cook, I think pretty soon we as politicians are
21 going to have to realize that as long as we persist
22 in providing universal programs we are taking
23 limited resources. Every time we give them to
24 everybody including people who don't need them we
25 are left with fewer dollars to give to those people



1 who really do need assistance and I hope that those
2 of us in the legislature and those of us who are
3 not only just the new members of the legislature
4 will start to realize that fact and why I have some
5 questions--it points to why I have some questions
6 about this Bill. I have a perception about this
7 Bill based on my analysis of it and listening to
8 public hearings, that it is going to achieve several
9 things.

10 First of all, it is not going to
11 correct the issue which you referred to of helping
12 those truly in need. We know that after ten years
13 persons at the bottom end have been hurt by rent
14 control, not been helped, and people at the upper end
15 of the income have been helped.

16 The second thing, this Bill we have
17 been advised even by ministry staff it is only going
18 to stimulate building at the most expensive end, the
19 \$800, \$900, \$1,000 a month units and it is not
20 going to stimulate building in the affordable range.

21 The third thing it is going to do, and
22 even though the Ministry has provided a document
23 to the contrary, the third item that this Bill
24 proposes to do is to increase tenant's rents
25 marginally greater than had we stayed with the current



1 Bill.

2 What I wanted to ask you is if you
3 concur with those three basic contentions as many of us
4 on this Committee have come to understand the net
5 effect of this Bill? No help for the low end, no
6 production -- no stimulus for production in mid-
7 affordable housing and the increase in rents which
8 will be passed on to tenants marginally over had
9 we stayed with the status quo.

10 MR. DOCHERTY: I want to ask you
11 one further question because what is your inter-
12 pretation of marginally increased? What do you --
13 give me a figure.

14 MR. JACKSON: I would rather not
15 give a figure. I realize that under certain
16 circumstances...

17 MR. DOCHERTY: I am prepared to
18 but -- I am prepared to say what I think it will
19 result in.

20 MR. JACKSON: I find it hard to believe
21 the nine tenants, the nine landlords on that Committee,
22 the RRAC Committee, would have agreed to that formula
23 if in some way it didn't bring them out of what
24 we all understand has been a difficult operating
25 position for the last ten years. There is a



1 recognition of certain financial costs which are
2 going to increase and be passed on to the tenant
3 marginally. I mean we are not looking at quantum
4 leaps of \$300 and \$400 rent increases. We are
5 dealing with marginal increases of rent that if
6 a tenant under the old legislation might appreciate
7 rent increases of 4 per cent, 5 per cent and under
8 this Bill in many instances they would go to 6 or
9 7 per cent, given the acknowledgements within the Bill
10 just as Mr. Patrick has explained that there is
11 certain factoring.

12 I just want you to respond to those
13 three conditions which I think are simple, but
14 clear net results to this Bill.

15 MR. DOCHERTY: Right. The first
16 one, it will do nothing for low income shelter. There
17 is not one thing constructive about it because it
18 doesn't offer any relief. It doesn't bring the
19 industry back. It still leaves them with an annual
20 political mandate. Have a minority government had
21 an election issue and you are in big trouble. I
22 don't think I am unfair in saying that to this
23 Committee because it is an all-party committee and
24 it is made up partly of tenants and anybody that
25 doesn't recognize that is not understanding the



1 problem.

2 Secondly, middleclass, and I think
3 your second question was for middle priced housing;
4 will it bring anything on in middle priced housing?
5 I think not because even with low interest rates
6 if you have to put 20 per cent equity into a build-
7 ing and let's say you take 150 units or let's round
8 it in easy figures, say, you took 150 units and you
9 took units if you could do it for \$70,000 a pop
10 even, that is probably \$10 million in round figures
11 quick, if my mechanics are right. So if you need
12 85 per cent, you need 8.5 million for mortgage and
13 85 per cent would be 8.5 million, so you would probably
14 need a couple million dollars equity.

15 Do you think any entrepreneur in
16 his right mind will put that kind of money into
17 something that next year may have a downdraft on
18 it and he would be wiped out as those of us who
19 continued to produce in '76 and I can't help but
20 get this in, in the comfortable atmosphere that
21 those units not under control would not be brought
22 under control.

23 You know, we kept producing, we
24 kept building and we figured that they would not
25 be under control, only the old stuff would be. Now,



1 I don't think it would bring one unit to the market-
2 place unless there is exceptional individual applica-
3 tion and you know you can't say there never will
4 be anything. "Never" is a word none of us should
5 ever use.

6 The last question you had was an
7 affordable rate. In 1976 the pass-through was 8 points,
8 8 per cent, when it first came into being 8 per cent.
9 I want to say to you and I want to say it to you
10 honestly, that there was a time and place in this
11 community when I never could have got 8 per cent,
12 8 per cent in the marketplace. I got it because the
13 government said it was okay and I am admitting that.

14 MR. JACKSON: We are aware of that.

15 MR. DOCHERTY: I want you to under-
16 stand and some day I will get it again if
17 you guys keep it up because you say it is okay, but
18 to come back to the problem, I think the pass-
19 through will be somewhere between 6.5 and 8.5 and
20 I hesitate to try -- it is so fraught with terror,
21 the individual application, the equity, the
22 refurbishing. You know, there has been a warehousing
23 of refurbishing. Some of us haven't been able to
24 touch an improvement; preventative maintenance
25 fell by the wayside. Panic maintenance is what we



1 talk about now. When the manager calls, don't do it
2 for God's sakes, don't do it, we haven't got the
3 money.

4 So we have to readdress long-term
5 maintenance. So some guys are in worse shape than guys
6 other buildings. So I guess somewhere between 6.5
7 and 8.5 and I see that as upside and downside.

8 MR. JACKSON: So really the bottom
9 line is there will be additional increases for
10 tenants. It is a tragedy that all tenants are going
11 to pay for those as opposed to those who have the
12 ability to pay.

13 MR. DOCHERTY: The real tragedy,
14 sir, the real tragedy is that I live in a unit that
15 rents for \$1300 or \$1400 a month. I sure don't need
16 rent control or I hope I don't need it for a long
17 time, and the other people that live in that building
18 with me don't need rent control and yet we are putting
19 rent control on them at the expense of the taxpaying
20 public of this province and that is ludicrous. It
21 really is and on top of that having said
22 and having got Bill 51 through, you still haven't
23 done nothing to bring private enterprise back in
24 the marketplace with units. That is the real problem
25 we should be addressing because it will just get worse.



1 MR. JACKSON: Mr. Chairman, I know
2 I am taking a while here, but you did start by
3 discussing vacancy rate. When we were driving in
4 from the airport I was asking the cab driver what the
5 vacancy rate was. Could you tell us what you under-
6 stand the CMHC vacancy rate would be and what you
7 believe the real vacancy rate is in this community?

8 MR. DOCHERTY: Vacancy rates are
9 a perception and I want no misunderstanding here
10 because I was misquoted and I mis-projected in a
11 hearing not too long ago and CMHC were very upset
12 with me and I went down and had a meeting with them
13 to find out exactly what we were both talking about
14 because I have had a long association with CMCH
15 and government programs and I respect them very
16 greatly.

17 As Mr. Cook said earlier, we have
18 the third highest rent in the province. He is
19 wrong, because I have seen the statistical sheet and
20 we have got the lowest rent for a bachelor unit next
21 to Leamington and Leamington is part of this metro-
22 politan area in the sense that it is part of the
23 County and in the other places we stood 6th, 7th and 8th.
24 You know, figures lie and liars figure if I can put
25 it that way.



1 A perception of vacancy rates is
2 what you people are dealing with. CMCH's vacancy
3 rate is published in the papers and it is said to
4 be -- nobody looks behind the cover to see what
5 units does that apply to. Now in this community and
6 I quote the manager of the local office, he does not
7 survey townhouses. Now how big a market do you think
8 townhouses are in the province of Ontario? Do any of you
9 have any hands-on feeling about how big a market
10 townhouses are?

11 MR. JACKSON: 12 to 15 per cent?

12 MR. DOCHERTY: They are a tremendous
13 part of the market. My God, in Toronto they must
14 be higher than what you said. They don't check units
15 of less than four. Have you any idea how big semi-
16 detached are in this province which are two or
17 duplexes?

18 So I say to you as simply as I can
19 I know that all the little builders in this province
20 far out-produce all of the bigs. So in terms of-- I
21 would guess the actual survey is done on 50 per cent
22 of the units in the province and the other 50 per cent
23 nobody knows what is going on and if I had a true
24 perception of vacancy rate, vacancy rate for welfare
25 and mother-led families is zip because there is no



1 more public housing units in any dimension being
2 built for them, but the vacancy rate I can tell you
3 that the turnover in our units, and we have got a
4 lot of units in all price sectors, I have low income,
5 I have high income and I have got them spread in
6 between, I have got townhouses, high rise, low rise,
7 single family and our term, and let me check it because
8 he knows better than I do ...

9 THE CHAIRMAN: I am sorry to
10 interrupt.

11 MR. DOCHERTY: Our term is 20 per
12 cent so figure it out. It has got to be a lot higher
13 than it is. I am guessing, Mr. Chairman, that amount
14 if they say half a point it has got to be somewhere
15 near 3 really, real, not imagined, real, 20 per cent
16 term.

17 THE CHARIMAN: We are running away
18 behind and it is not fair to other people who want to
19 make presentations. Mr. Jackson, is that all right?

20 MR. JACKSON: Thank you.

21 THE CHAIRMAN: Mr. Epp, you have
22 one short question and a short response.

23 MR. EPP: One comment, actually two
24 comments. I am Chairman of the government caucus and
25 you haven't made an application to meet the govern-



1 ment caucus because I haven't received one. I just
2 want to clarify that, unless it is in my office.

3 MR. DOCHERTY: Are you with the
4 Liberals?

5 MR. EPP: Yes.

6 MR. DOCHERTY: I wrote a letter
7 to Premier Peterson a year and a half ago when you
8 first came into power and I heard from some deputies and
9 they weren't really interested.

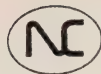
10 MR. EPP: It never came to me as
11 Chairman of the caucus.

12 MR. DOCHERTY: I write to the Premier
13 all the time.

14 MR. EPP: I want to clarify what
15 Mr. Jackson said earlier that the Ministry indicated
16 that it might build houses or apartment units in the
17 form of about \$800 and that figure was based in
18 Toronto where the prices, as you know, are much in
19 excess of what they might be in Windsor or Kitchener-
20 Waterloo or other areas.

21 MR. DOCHERTY: The rest of Ontario.

22 MR. EPP: The rest of Ontario, right.
23 I just wanted to clarify that. I didn't want the
24 Ministry to be misunderstood. I don't expect you
25 to respond to this, but I want the audience to know



1 that is not what the Ministry said and I wanted that
2 clarified.

3 MR.DOCHERTY: Did I say something
4 about \$800?

5 MR. EPP: No, Mr. Jackson did, but
6 I want it on the record, that it was referring to
7 Toronto and not outside Toronto.

8 THE CHAIRMAN: Thank you, Mr. Epp.
9 Thank you for appearing before the Committee.

10 MR. BERNIER: A good presentation.
11 Thank you. (Applause).

12 THE CHAIRMAN: Is Leonard Lyons here?
13 Mr. Lyons? I see a hand.

14 MR. LYONS: I am Leonard Lyons
15 and this is an associate of mine, Bill Kendrick.

16 THE CHAIRMAN: Mr. Lyons and
17 Mr. Kendrick, welcome to the Committee. Do you have
18 a copy of your ...

19 MR. LYONS: I had no idea there were
20 so many of you.

21 MR. JACKSON: There are 120 of us
22 back home.

23 THE CHAIRMAN: Okay, Mr. Lyons, if
24 you would proceed, have a seat and make yourself
25 comfortable.



1 MR. LYONS: I am used to talking
2 on my feet. I will attempt to be brief in view of
3 the fact that Mr. Docherty covered or touched on
4 many of the proposals that I have had in mind.

5 THE CHAIRMAN: I wonder if you could
6 move the microphone close to you because people have
7 trouble hearing. Thank you.

8 MR. LYONS: Okay. Essentially rent
9 control was dropped in 1975 to apply on pre-76
10 construction with an implied warranty that anything
11 after '76 would be exempt. Needless to say, this
12 was introduced and spoken about as being a "temporary"
13 method of protecting the rental market for the
14 tenant. I suppose, like everything else, if I call
15 upon history, the United States introduced income tax
16 as a temporary situation after World War I as well,
17 but needless to say it is a proven thing where rent
18 control has remained too long it has completely
19 devastated the rental market as we would like it to
20 be in this fair province of ours.

21 Now, there was an implied warranty
22 that post-76 construction would be exempt and a
23 reliance upon that construction continued on an
24 escalated cost basis and a very crucial high interest
25 market for a period of 10 years. Now, just as it was



1 a catastrophe to introduce the legislation with such
2 a cut-off point with absolutely no relief for
3 buildings that were under construction in '76 and
4 were far completed.

5 I personally was involved in a
6 building that had ^{the} basement in and the first floor
7 brick laid and rent control applied to that building.
8 By the time the building was completed, it was
9 approximately almost 1977, but nevertheless the
10 legislation caught it. Now this is the type of thing
11 that I think we should put our mind to and I think
12 there should be a method of phasing in rent control
13 on post-76 construction in that it shouldn't catch
14 everything.

15 What I am saying is it took ten years
16 to bring in the buildings that were post-76. Let's
17 phase them in one year at a time allowing the build-
18 ings that were built in '86, '85, '84 and '83 to come on-
19 stream. What I am particularly lending myself
20 to are the buildings that were caught with high interest
21 rates and the recession. It is very easy to work
22 out a formula and I wish consideration were given to
23 that point.

24 I don't have to talk about sub-
25 sidizing people that don't need rent control as



1 Mr. Docherty I feel has covered that very adequately.
2 So what I am proposing is that you phase in post-
3 76 construction one year at a time whereby all build-
4 ings would be brought under rent control over a
5 period of approximately nine or ten years.

6 An alternative to that would be bringing
7 all buildings under rent control and phase them out one
8 year at a time, so at the end of a ten-year period
9 you would have gotten rid of rent control and people
10 can plan and govern themselves accordingly.

11 Most of all I would like to stress
12 at this point that immediate attention be given
13 to the fact that any new construction post-86 or
14 '86 and on be exempt from rent control by legisla-
15 tion for a period of ten years. In other words, what
16 I am trying to say to you is that I don't think anyone
17 is going to trust the government of Ontario to keep
18 an implied promise as was done in 1976 and at this
19 moment let me emphatically state what my reaction
20 was when I heard that post-76 rent control was coming
21 in. I laughed at it. I said it would never happen.
22 I raised rents that were undervalued approximately
23 \$35. I heard stories of people being raised \$75
24 and \$100 and \$125 a crack to bring it under control.
25 I did not have the heart to do that to people, senior



Toronto, Ontario

1 citizens and otherwise, and I raised their rents
2 \$35 because I didn't think the province would do it
3 and they did it and it made me look like a silly ass.

4 Sorry. I just can't do that to
5 people.

6 We are running into a system that
7 is going to cost the taxpayers I would throw a wild
8 guess out of \$20 million. This is not being brought
9 hope and I defy the government to publish and be
10 honest and disclose the true cost to the homeowner,
11 that poor son of a gun that is working and slugging
12 and raising a family and he gets nothing. If he
13 works overtime they tax the hell out of him and he
14 has to take what is left and he has to take care of
15 his family. He has to pay increased taxes which
16 are continuously going up astronomically. He gets
17 no deduction for his interest. He is the guy who is
18 trying to raise a family. He is your future
19 generation, the future strength of the province and
20 what does he get? He gets nothing. You have got
21 people with a combined income of \$100,000 living in
22 a subsidized unit through rent control and you've got
23 this poor bastard who is working making big money and he
24 gets a small paycheque and has to try to cover house
25 expenses, mortgage payments, rising interest and gets



1 caught in the crunch. Where is the justification of
2 that? Where is the UAW, where is the NDP, for that
3 matter. My God, if you want crusades, they are out
4 there.

5 I think Mr. Docherty has talked on
6 the matter of allowable equity on allowances and I am
7 suggesting that this might be determined by assessed
8 value on the property. Now if your equity is going
9 to be determined by an assessed value, then I think
10 it would prove -- what's so funny?

11 MR. PIERCE: It is all right. Go ahead.

12 MR. LYONS: I think it could be
13 determined by the landlord wanting his assessed
14 value to be as high as possible whereby he would
15 have encouragement to fix up the premises, et cetera,
16 because by doing that his assessment goes up and
17 therefore his equitable return will follow.

18 The whole purpose of the exercise
19 is to protect and do something for the truly needy
20 which is something Mr. Docherty went into in great
21 detail and I know which everyone here is sincere
22 about. Some questions that come to mind: why should
23 a unit offer the same return for four people living
24 there as opposed to one occupant. It is very obvious
25 that the wear and tear on the unit with one person
living there as opposed to four is obvious, and how



1 does this resolve the rental market situation?
2 Why should a landlord in his right mind offer
3 occupancy to four persons, and when I am talking about
4 four persons I am talking about a family, as opposed
5 to a single person? Where is the inducement? In
6 other words, the people that truly need the help and
7 the accommodation are the ones that are not going
8 to get it. Now you can of course spend a great deal of
9 time on that subject matter which I don't intend to
10 go into. I think if you understand the problem,
11 then you can play the mental game of trying to figure
12 out what a fair and just solution or incentive or
13 inducement might be.

14 One of the things I did come up with,
15 was to permit an automatic increase upon application
16 to the Board establishing, as the case may be, whether
17 the unit is occupied by one, two or a family or what-
18 ever the case may be, to create an inducement to
19 increase the number of tenants occupying that respective
20 unit. If there were such an inducement, I think it
21 would do a lot to alleviate people looking for units
22 where they show you a picture of a couple with two
23 small children saying they can't find a place to
24 live.

25 I think another thing that would bal-



1 ance itself out quite well would be to reduce the
2 taxes, municipal taxes by some formula where they
3 would not be taxed at a greater rate than residential
4 housing, mainly single units. If you take a homeowner
5 who is giving up their home to move into an apart-
6 ment, if they were paying \$1200 a year taxes on their
7 home and they move into an apartment because of
8 what they consider the size of the unit, their
9 supposition is the taxes would be in the range of
10 about \$350 without realizing that the taxes are
11 equal to if not greater than what they paid in their
12 home. This would do a lot to alleviate the tension
13 of this choosing up sides and this bitterness that
14 follows. every tenant that I have ever spoken to
15 when it is explained to them that the taxes on
16 their unit are in excess of \$1,000 and then take
17 off the utility cost et cetera, they are amazed
18 at how little their rent is and if that is what the
19 common belief is of a tenant, then why not do it that
20 way?

21 If it were done that way and there
22 was this immediate reduction coming in taxes whereby
23 the cash flow, net cash flow would increase, you
24 would not be jammed with a multitude of applications
25 for rent review which you obviously know you are



1 looking forward to and if the province could some
2 way under its program make up that difference to
3 the municipalities, we would have a truer picture
4 and I would venture to say that you would eliminate
5 two-thirds of the expected applications you are
6 going to receive and this matter can resolve itself.

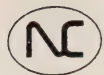
7 Now I think I will skip my next
8 item which was going to deal with the picture we
9 see in the paper from time to time of some landlord
10 showing how the interior of his premises was
11 completely ruined and the cost of repairs he would
12 have to undergo, and in addition to that the current
13 method of evicting a tenant which could take two to
14 three months and the horrific losses that he took.

15 If the province or any housing
16 authority puts a tenant into possession and should
17 that tenant fail to pay the rent and do extensive
18 damage to the property to the tune of thousands
19 of dollars whereby the landlord is wiped out and this
20 usually occurs in your single family duplexes and
21 fourplex semi-detached or townhouse type of living,
22 that the province should pick up an assignment of
23 that landlord's judgment. A formula of, say, minus
24 25 per cent and reimburse him on the proviso that
25 it remain a rental unit, because what happens in



1 every one of these situations they are either condemned
2 or they are off the rental market because the landlord
3 cannot afford to have another situation occur such
4 as that which in many situations with some of our --
5 from my experience many of these landlords are
6 practically senior citizens, they are all over 50
7 type of thing, and it is just the type of thing that
8 could give them a coronary.

9 There has been a great deal of talk
10 about making units available to the open market on
11 their becoming vacant which undoubtedly on the surface
12 might sound like a fair and equitable thing. However,
13 I can't say I honestly believe that that would work
14 because in theory what would happen is there would
15 be problems whereby the tenant would be possibly
16 harassed. It troubles me to say things like that
17 but you have to allow for all contingencies and what
18 I am saying is if a unit does become available let
19 it be put on the open market provided that if the
20 landlord accepts a tenant from a list of needy
21 applicants supplied through municipal or provincial
22 authorities which would designate the tenant as
23 being in extreme need of housing, then a new rental
24 for that particular unit could be negotiated. Failing
25 that, it would remain under strict rent control.



1 In other words, that doubles back
2 to the situation I described where you have a single
3 person or you have an elderly married coupled vacating
4 a unit, you have a family of four that is looking
5 for accommodation going back to that formula, they
6 can't find it, et cetera, the unit becomes available
7 all on its own. If that landlord wants to negotiate
8 what the open market would be worth on that particular
9 unit then that unit will then lock in at that new
10 rate of rental and this would do I think and go
11 a long way to clearing up a lot of problems that
12 we are faced with that we are getting all the
13 attention.

14 It would also be realistic in the
15 sense that these poor people don't have to give up
16 and they don't have to live in accommodation or
17 under circumstances that none of us or any authority
18 wouldn't condemn. Get rid of the horror stories
19 is what I am saying.

20 My next topic was shelter allowance
21 and I am very impressed with the way Mr. Docherty
22 covered that. I had no intention to cover it because
23 I am sure that this panel has had more research and
24 thought given to it than I have and although it
25 sounds like the most fair and just way to handle



1 the situation I frankly don't share Mr. Docherty's
2 confidence and I don't want to get my hopes aroused
3 by saying that that is the way to go and there is no
4 other alternative although we all know that.

5 My next topic is interest free
6 loans or low cost loans, namely, nothing like the
7 automobile industry but let's take a round figure of
8 6 per cent. To my personal experience and knowledge
9 there have been many landlords that wanted to do
10 corrective repairs to their property. I also know
11 of situations where they have ordered the landlord
12 to do these repairs.

2A 13 I also know that the landlords haven't
14 got the money and can't get the money. Just because
15 he is the landlord. Anybody can be a landlord. It
16 is like anyone can be a president. A chap one day
17 said he was very impressed somebody gave him a card
18 and it said "president" and I said for \$300 I can
19 make you a president.

20 So any one can become a landlord
21 in the strict sense for \$500. Now what I am saying
22 is they don't all have the strength to go to the
23 bank and borrow money to do these repairs nor are
24 they able to get financing and yet they will be
25 prosecuted in many instances if they don't do it.



1 What I am saying is that if a building is in need of
2 it, in need of repair or in need of some renovation
3 then the province should loan that particular landlord
4 the money providing -- I won't go into the formula --
5 contracts are done and an inspection is done or the
6 City works department or building department says
7 it has to be done or should be done, loan him the
8 money, take a second mortgage or third mortgage as
9 the case may be on the property and let's preserve
10 some of this property that is on the verge of
11 becoming condemned, on the verge of being abandoned
12 and once the elements set in and it is abandoned and
13 vandalism sets into it it reaches a point where
14 it can't be restored. I know the flip side of that
15 is the province has allotted formulas whereby money
16 is available if you want to fix up, create a unit
17 and so forth and so on.

18 I am just suggesting this as another
19 alternative and give you -- the point being there
20 are landlords out there that cannot get the money.

21 Another point that I want to bring out
22 is in 1986 September the province of Saskatchewan
23 passed legislation to the effect that you have 90 days
24 to apply, \$10,000 for any kind of renovation, be it
25 commercial or residential, \$1500 forgivable at 6 per



1 cent interest rate. That concludes what I have to
2 say. Thank you very much.

3 THE CHAIRMAN: Thank you, Mr. Lyons.
4 I assume -- are you a small landlord?

5 MR. LYONS: Yes.

6 THE CHAIRMAN: You are a landlord at
7 least?

8 MR. LYONS: Yes.

9 THE CHAIRMAN: I just want to tell you
10 there is no way of predicting what the Committee will
11 end up with in the Bill but certainly the voice of the
12 small landlord has been heard loudly and clearly
13 throughout these hearings.

14 MR. LYONS: Protection for everybody.
15 As I said, we have the problem and can't make it
16 go away overnight but you have to give some thought
17 to it. When you watch your TV and you watch the
18 scenes of New York, or when I cross the border and
19 I drive through Detroit and see beautiful brick
20 buildings with exterior fancy brickwork abandoned
21 and boarded and gutted, I look at that and I actually
22 pull over to the side and park and look at this
23 beautiful building and this is just decadent. This
24 is the thing we are trying to avoid and I think we
25 should avoid.



1 THE CHAIRMAN: Mr. Gordon.

2 MR. GORDON: Yes. I want to thank
3 you for a very thoughtful brief. You have given the
4 Committee food for thought. I wonder if you could
5 tell us do you have mainly pre-76 buildings or post-
6 76?

7 MR. LYONS: Yes.

8 MR. GORDON: How many do you have?

9 MR. LYONS: Well, I was involved in
10 three buildings.

11 MR. GORDON: I see. How many units
12 would that entail to give us an idea?

13 MR. LYONS: 50 and 30 and 20.

14 MR. GORDON: With the kinds of amend-
15 ments you suggested here could I take it then that
16 you really don't believe that Bill 51, a Bill that
17 extends rent controls to all the buildings should
18 be passed?

19 MR. LYONS: No. I don't feel that
20 way at all. I feel that a promise was made and it
21 was broken. I am involved in post-76 as well but
22 on a management level and I have to account to the
23 investors. I guess that is why I was given
24 instructions and I carried them out.

25 MR. GORDON: I understand why you are



1 saying why you think Bill 51 should be passed
2 because that is what you are saying really now.

3 MR. LYONS: No, I am saying it
4 shouldn't be. What is fair is fair even though
5 financially the damage has been done. I mean as far
6 as me personally, I see no purpose in extending
7 it and if it going to be passed I think it should
8 be put on the right track and that is it should be
9 either brought in one year at a time or it should
10 be eliminated on a backward motion.

11 As I said, I lost hundreds of thousands
12 of dollars as a result of having a million dollar
13 building under construction with a basement dug and
14 the first floor on. I lost two ways. I lost out on
15 capital cost allowance and I lost out on rent control.
16 So, in other words, what happened was I should have
17 taken the building with one floor on it and I should
18 have had it wrecked. I should have had everything
19 ripped out. I should have filled the hole with
20 dirt and gone and made an application to start it
21 all over again and I am saying let's not do the same
22 thing again. I mean if you have to do something
23 with Bill 51 then phase it in somehow. Don't take
24 buildings that were built when the big recession
25 hit after '79 and expect to bring them in under



1 Bill 51. If you want to phase them in there is
2 one proven factor. People will pay what they can
3 afford. They will move. There is a limit to what
4 they will pay and as far as being selective about
5 it and saying there is somebody else coming to take
6 their place we are in the same situation. The
7 landlord is not going to let one person or a couple
8 to move to get four people in there. He will take
9 the lower rent and remain with the two rather than
10 have the wear and tear of four.

11 THE CHAIRMAN: Thank you, Mr. Gordon.
12 Mrs. Caplan.

13 MRS. CAPLAN: Just a couple of very
14 short points. This Committee has heard from many
15 landlords and many tenants. We have heard the spectrum,
16 everything from your point of view which is "I don't
17 like it, I can't live with it, I won't build. It is
18 too protective of tenants and it is not fair to
19 landlords who are saying " I
20
21 don't like it, I can live with that and I will build."
22 We have also heard from tenants saying "We don't
23 like it because we feel it is much too fair to land-
24 lords," and we have also heard from tenant groups
25 saying "They are parts of it we don't like," as we

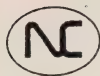


1 | heard today, but and I referred earlier to the
2 | consensus which was achieved by the RRAC Committee.

3 | What they were saying was this would
4 | give some security or confidence ensuring tenant
5 | protection for the future, recognizing that we have
6 | a supply problem, that rent review is here to stay
7 | because of the all party commitment to that nomenclature
8 | and looking for something that is fair to landlords
9 | and will give tenants the kind of protection, the
10 | kind of maintenance that is possible. I mean we
11 | have heard all of that and I am giving you that because
12 | I think it is important for those who come with an
13 | extreme position to know that we have heard the full
14 | range.

15 | I guess what I am saying to you is
16 | recognizing the reality that rent review is here to
17 | stay, that there are people living in post-76
18 | buildings who were forced into those buildings because
19 | there was no place else to go, that there is a real
20 | need for the kind of maintenance this Bill will
21 | provide and the security for those people who see
22 | their very homes threatened.

23 | Can you see particularly with the
24 | results of the RRAC Committee how perhaps this is
25 | that kind of delicate equilibrium or reasonable



1 approach to give some confidence to both sides?

2 MR. LYONS: I realize what you are
3 trying to say and I think what the landlords have
4 to realize and the tenants have to realize is we
5 have now reached a crossroad where we are all in this
6 thing together and the next problem is to be as just
7 as possible. Basically when you try and explain to
8 somebody why it is going to cost more money, if they
9 don't understand it the first time they won't under-
10 stand it the tenth time. If you try to explain to
11 somebody why they are getting more money or coming
12 out ahead they always understand it the first time.

13 What I am saying is that if it has
14 to be then there also has to be -- I strongly urge
15 that there be some legislation thrown out on the
16 market giving a guarantee that they will not be
17 affected by rent control for a ten-year period or
18 something like that. You have got to get the sector
19 going. You have to create some inducement.

20 MRS. CAPLAN: We have heard representa-
21 tions from the building sector that this Bill would
22 allow for those willing to take the risk to come in.
23 We heard builders yesterday saying "We will build
24 because we are guaranteed in the future a
25 reasonable and fair rate of return" and that is the



1 caveat there for the future.

2 MR. LYONS: Once the formula is in
3 effect but let me go back, let me go back to something
4 you are really overlooking and Mr. Docherty covered
5 it. He said that what you are dealing with and
6 what you are recognizing is 50 per cent of the units
7 out there and then when you say "We talked to builders
8 you are talking about another 25 per cent or greater.

9 So what you are talking to when you
10 say builders, you are talking to 25 per cent of the
11 people, of the large construction men, construction
12 firms that can make high rises go up. That is who
13 you are talking to. You are talking to a situation
14 where you can have an administrative management,
15 computers, et cetera, that will look after a great
16 multitude of units that they say we can live with it and
17 we will build with it--what Mr. Docherty said and
18 I am taking his 50 per cent and I am running into
19 the small contractor who is capable of building a
20 twoplex, fourplex, six units, eight units, eleven
21 units, that man wants to be able to represent and
22 know that there is legislation in effect that that
23 building is exempt from rent control for ten years.

24 MRS. CAPLAN: Even if he is guaranteed
25 under the formula a reasonable return?



1 MR. LYONS: The formula has nothing
2 to do with it. As soon as you mention redtape to these
3 people, forms, you can go back every year and ask
4 for more and you explain it is going to cost him a
5 fee, it is going to cost him money, it is going to
6 cost him time, they are not interested and I know
7 what I am talking about because I have handled
8 tens of thousands of these people. I know their
9 thinking and they won't buy it. They won't touch it.

10 MRS. CAPLAN: We have heard that.
11 As I said, we have heard the full spectrum.

12 MR. LYONS: You are basically saying
13 the same thing. On the one hand you are saying they
14 will build because they can get the fair return and
15 they can get their money and they can go back every
16 year and review it and everything is going to be nice,
17 but you are falling into a pitfall and it is so easy
18 with government creating a mass of forms by saying
19 it is relatively easy. It is not easy. These people
20 are from Europe, many of them are ethnic background
21 and they don't want anything to do with redtape.
22 They don't want anything to do with forms. The
23 little they have to come in contact with any bureau,
24 any government form or applications or anything else
25 like that they hate it. So if you want something,



1 if you want to create units out there and they will
2 work weekends, they will work 12 hours a day, they
3 will get it up, there is a market for that, a
4 very strong market, pride of ownership. It is out there
5 and that is an untapped source.

6 As Mr. Docherty said, that is where
7 the majority of the units are. You could do it. All
8 you have to do is give them ten years guaranteed no
9 rent control and they go out and tell it to people
10 that only know one thing -- dollars and cents. If
11 the market is better there is a limit to what you
12 can get. People move out on you.

13 THE CHAIRMAN: Mr. Lyons, we must
14 move on. Thank you very much for your presentation.
15 Your message is loud and clear. (Applause).

16 The next presentation is
17 Mrs. Albert Kamen of Kamsil Enterprises Ltd. Welcome
18 to the Committee.

19 MRS. KAMEN: Thank you.

20 I am here to speak on behalf of the
21 small landlords in Essex Township which I am most
22 familiar with. I debated whether I should come here
23 with so many august people here and something
24 I read in the paper in the Toronto Star decided me
25 absolutely I must come.



1 It is a tenant column in Toronto and
2 the column said if the landlords are really suffering
3 they would be crying and screaming and they are not
4 making any sounds, so they are obviously making a
5 great deal of money. That decided me to come here
6 today. Mr. Docherty who is one of the biggest
7 landlords here in the City has told you that the
8 majority of the housing which is available starting
9 from a duplex to a sixplex to a fourplex and
10 supplies more housing units than all the high rises
11 in Ontario are the small landlords.

12 First of all he asked for no government
13 grants. He takes a chance with his own money. He
14 runs it himself and if it is good times, fine, if it
15 is bad times he bites the bullet. That is the
16 expression they use. You don't like to hear us
17 crying. We are not used to it. We are used to working
18 for what we have and we take chances.

19 The majority of small landlords are
20 people who either have factory jobs or small businesses
21 and they have no pension. They don't have government
22 pensions, they have small stores, small shops of all
23 kinds and they realize that when they reach their
24 sixties they have to have something to augment their
25 income. My husband and I did that. We started with a



1 duplex and went to a fourplex, all with our own
2 money, all with a lot of sacrifice on behalf of
3 my husband and myself. We asked nothing from nobody.
4 We took our chances and in Windsor we have had good
5 times and we have had some bitter times here too.
6 We had no help from the government. We never asked
7 for any.

8 In 1975 when inflation became so
9 very, very bad we were told that rent control was
10 going to be put on because controls were being put
11 on everybody. That sounded fair. Over the time
12 controls have gone off everybody except the landlord,
13 the small landlord, the small fellow because he
14 isn't unionized. He isn't really very bright and
15 we have continued to be taken advantage of by
16 everybody.

17 I hate to tell you because you are
18 all politicians but when controls went off everybody
19 else they stayed with us and as Mr. Miller found out
20 in the last election he threw what he thought was
21 the best plum of all, he went from six which was
22 ridiculous to four which made your investment
23 marginal.

24 Now it has been ten years of this,
25 ten years of cutting back and cutting back. We have



1 gone from the flesh to the bone. We are down to
2 nothing and if you are going to drive around this
3 City you will see not much decoration, absolutely
4 no construction and I know there are people here
5 today in this room who say the landlord is making
6 so much money. If he is making so much money why
7 is there no construction? There is no money in it
8 and most of us have reached the point now after
9 ten years of this, going on eleven, we pay our
10 taxes, we pay our mortgage payments, our utilities,
11 our insurance and we are hanging in by our bare teeth.

12 Mr. Lyons told you he has dealt with
13 a lot of people, small contractors who are building,
14 who have risen from four families now to a 20-unit
15 or 24-unit, they are becoming better at it and
16 they are able to produce good apartments. They are
17 not going to work for nothing. You gentlemen don't
18 work for nothing, or you, Ma'am, nor will I nor will
19 anybody.

20 We have rent control and it is a
21 self-destroying system. It doesn't help the government
22 because the government has to come in and subsidize.
23 It has to spend multi, multi-millions of dollars on
24 offices, on bureaucracy. People who need housing
25 should get it but they should get it in an intelligent



1 manner. There should be an office for people who need
2 to be subsidized should apply and then they should
3 have the privilege of not being stuck into an apartment
4 that is available but they should have the privilege
5 of living wherever they want in whatever city they
6 are in. If they are used to the west side they should
7 rent a unit on the west side where maybe they raised
8 their family or they are used to that area, but to
9 simply do it this way creates multi-millions which
10 should be spent on these very same people, not being
11 thrown away on bureaucracy and there is no point to
12 it.

13 Now Bill 51 I really see no merit in
14 at all. I don't see where it is getting any better.
15 The only way that this government is going to do its
16 job which is to make sure there is housing in this
17 province is to phase out rent control and let free
18 enterprise take over. We have been here in Windsor
19 long enough I can remember before 1975 there were
20 apartments so over-built they gave you three months
21 worth of rent and gave you a trip to Florida.
22 People seem to have forgotten that. A builder will
23 build if there is a reasonable profit and no committee
24 no promises, no grants is going to make him move
25 especially as Mr. Lyons has brought out we now doubt



1 when the government makes a promise that they want
2 to keep it. There is money that is needed. It is
3 needed by the builders. We have had no construction
4 in this City at all except government subsidized
5 housing. Look at all the jobs that are being lost.
6 They are hurting terribly. I am not their
7 representative but I know myself when I speak to
8 bricklayers or plasterers or speak to the man who
9 sells carpets or who sells all kinds of fixtures,
10 their business is off and it goes right down the line.
11 The country was built on free enterprise. It is the
12 only way it will ever work and the best way, the
13 intelligent way and I think that as a government
14 official the best way to do it is to have some
15 approach to -- not what is best for me right now but
16 look down the line, it is the only way it is going
17 to be.

18 There is nothing, there is no one
19 more efficient and more hardworking than a free
20 enterpriser but give him a break. As it is now, it
21 cannot go on much more than this. As I told you,
22 we are down to the bare bone. If the hallway needs
23 carpeting it is not going to get it because I can't
24 afford it. Mr. Lyons mentioned to you what has
25 happened to the City of Detroit. It is pitiful. In



1 time it will happen to this City. No one can make
2 something out of nothing. You can't build, you can't
3 repair, you can't modernize if there is no income
4 and, gentlemen, and Ma'am, you realize yourself
5 why should anybody invest in an apartment with all
6 the heartache and all the aggravation and all the
7 risk at 4 per cent? He can go into any bank,
8 buy any type of small interest term deposit and
9 sleep nights, his money is available to him within
10 30 days. It is just plain common sense.

11 I am not a big builder. I am not
12 a very smart businessperson. I am just using common
13 sense. I left my work and I came down here for a
14 reason. I came to say with my own voice that the
15 situation as it is now cannot go on. It is not
16 intelligent, it doesn't have any common sense to it.
17 It is bad for the province, it is bad for the people
18 and it is bad for the tenants. Anyone who sells a
19 house or wants to go into an apartment hasn't got
20 it. Anyone who is in a smaller apartment and can
21 now afford to move into a better apartment hasn't
22 got it. It is not going to get better. It is going
23 to get worse.

24 That is all I have to say.

25 THE CHAIRMAN: Thank you, Mrs. Kamen.

(Applause)



1 Mr. Jackson.

2 MR. JACKSON: Not a question but a
3 comment, Mrs. Kamen. If you have been reading some
4 of the Toronto Star articles you may have read the
5 fact that currently the Residential Tenancies
6 Commission program in Ontario is costing taxpayers
7 \$12 million and it is expected that under Bill 51
8 it is going to rise to \$20 million of taxpayers'
9 dollars. So I thought if you wanted to come with your
10 voice I thought I would just add that little
11 statistic for you to include when you continue with
12 your message, but we are now up to \$20 million of
13 taxpayers' money which is going just into an
14 administration program.

15 MRS. KAMEN: Mr. Jackson, I have a
16 feeling it is a great deal more than that. I am
17 glad you brought it up because besides owning this
18 property I have a home too and I pay taxes and our
19 tax demand this month, the last tax demand, I looked
20 at the taxes I am paying and I have to say where
21 is my money going?

22 MR. JACKSON: I want to tell you that
23 does not include the various programs like the rent
24 supplement programs or various housing authority
25 programs. I don't know if there is municipal owned



1 housing in Windsor, I don't know.

2 MRS. KAMEN: Municipal, yes, there is.

3 MR. JACKSON: Owned by the municipalit

4 MRS. KAMEN: By the City Corporation.

5 MR. JACKSON: Just to administer this
6 Bill, just the civil servants, the registry and adver-
7 tising was \$20 million.

8 MRS. KAMEN: Yes, that I can believe
9 and it is probably much more and this money could be
10 used to subsidize people who really need it. I think
11 it should be given to people -- if you have it, it
12 is given to you directly and you pick where you want
13 to live. That is the best approach.

14 THE CHAIRMAN: Thank you, Mr. Jackson.
15 Mrs. Caplan.

16 MRS. CAPLAN: The only comment I
17 wanted to make, Mrs. Kamen, and you have been very
18 eloquent, is that as I am sure you are aware and you
19 stated in your presentation this is a situation
20 which we have had now for ten years, one which
21 without getting partisan on it deteriorated and
22 allowed buildings to indeed deteriorate and got to the
23 point where we have a serious lack of supply. I
24 think you recognize as do my colleagues that it is
25 going to be impossible to turn around the housing



1 supply problem, deal with the affordability of many
2 people and encourage the supply to increase in a
3 very short period of time. I think that the approach
4 that this Bill is taking is trying, as I said before,
5 to give some sense of confidence and security as to
6 what will be for the future, the longer term, to give
7 that kind of protection so at least we know what is
8 coming and what we can expect.

9 We have heard from builders large and
10 small. We have heard from tenants that every one
11 wants security in housing and the RRAC Committee and
12 I used the expression today, developed and came
13 to a dynamic equilibrium, a delicate balance of
14 those competing interests in the hopes we could have
15 that kind of confidence to turn this around so that
16 people will have a choice of where to live and apart-
17 ments where they can afford to live.

18 So we have to recognize it has taken
19 us ten years to reach this point and we can't expect
20 to have a free market system with all the kinds of
21 choices and affordable rents overnight. I just wanted
22 to make that point to you.

23 MRS. KAMEN: I would like to make just
24 a couple of points. If the builders are not going
25 to build at 4, they are not going to build at 5.2.



1 It is as simple as that. As you say it is true.
2 Ten years of this going on where now housing has
3 become a serious thing one only has to accept the
4 position if you want to cure the disease, you have
5 to take the medicine. The medicine is abolishing
6 rent control. There is no other way. Mrs. Caplan, I

7 MRS. CAPLAN: The RRAC Committee
8 came forward with what they believed was a Bill that
9 would be fair to tenants, fair to landlords,
10 protection and encourage the kind of building and
11 encourage the kind of maintenance and be fair to the
12 landlords at a reasonable rate of return as well.
13 I think that is what this Committee is trying to
14 deal with this Bill and this I said we have heard the
15 full spectrum of those coming before us but I think
16 everyone recognizes that what we need to do is work
17 together and I think the RRAC Committee shows a
18 tremendous incentive and willingness to sit down and
19 work this out and I think their ongoing work will
20 be very, very important to help us solve the
21 serious housing problems that we have.

22 MRS. KAMEN: Mrs. Caplan, I think
23 it is commendable the Committee is here and is going
24 around and wants to hear, obviously wants to reach
25 the public, get different points of view because



1 then you can make an intelligent decision, but if
2 you want to hear from one small landlord who has
3 suffered for a long time Bill 51 is not the answer.
4 You have to phase out rent control and maybe phase it
5 out in a smaller way but I think if you took off rent
6 control there would be such a tremendous amount of
7 building going on -- I am not talking about Toronto
8 and I can only talk for Windsor, but the need is
9 there and where there is a need there are entrepren-
10 eurs who will fill it.

11 I am sincere. You cannot imagine
12 when you show someone a reasonable profit how quickly,
13 how efficiently they are going to build.

14 THE CHAIRMAN: Mrs. Kamen, thank you
15 very much for coming before the Committee. We
16 appreciate your presentation.

17 MRS. KAMEN: Thank you very much,
18 bye, bye. (Applause)

19 THE CHAIRMAN: Is Ewald Hesse here?
20 Am I pronouncing that correctly? Welcome to the
21 Committee.

22 MR. HESSE: Yes. First of all ...

23 THE CHAIRMAN: Could you try and
24 put the mike a little closer to you, the black one?
25 Thank you.



1 MR. HESSE: First of all let
2 me introduce myself. My name is Ewald Hesse and I
3 have an interest in this meeting because I am a
4 landlord. I own 31 units here in downtown Windsor and
5 24 units in Leamington. To many this is a small
6 amount but this is my livelihood and I feel I must
7 stand up for it and also represent others in my
8 situation.

9 First before we go on with the
10 speech I would like to share what I wrote to the
11 Hon. Alvin Curling on May 28th of this year. Please
12 allow my daughter Mrs. Graham who speaks more
13 comfortably than I do in English to continue on my
14 behalf.

15 MRS. GRAHAM: I will first read the
16 letter:

17 Sir:

18 "I am writing to you as a businessman
19 who wishes to share his opinions
20 and observations on rent control.
21 Perhaps you could consider this as
22 one man's version of the Thom
23 Report. You should know I feel
24 compelled to write this despite the
25 fact that I would be more content to



1 just carry on with business.

2 Unfortunately recent trends make this
3 indifference impossible.

4 Please allow me to take the time
5 to explain my background. I am a
6 German born Canadian who grew up
7 during the time the National
8 Socialist Workers Party was in power.

9 As you are probably aware,
10 absolutely nothing was not under
11 government control at that time. This
12 as you can surely appreciate has
13 made me very conscious of what
14 controls really are and what their
15 implication will eventually lead to.

16 The government which followed the war
17 faced housing shortages far exceeding
18 our present crisis. They too, like
19 the provincial government, tried
20 various incentives to alleviate the
21 problem. Indeed one of these
22 encouraged me to become a landlord.

23 The program was that any one who
24 builds or converts single family homes
25 into duplex or multi-tenant units would



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receive a lump sum of money. Sound familiar? This was a temporary program when it was implemented and you would have to guarantee to keep the tenant for a specific time. The idea was that more suitable housing would have developed during that time, but unfortunately as is typical with governments the rules changed and after the specified time was over it became illegal to evict the tenants. You must understand the problems this posed. Imagine yourself having a young family not being allowed to expand into your house as you planned when you built it. No one would buy your house because of the duplex nature and you certainly could not afford to build again without a sale. That was my first encounter with rental housing control. Of course there were many more controls implemented over the next years and this was one of the reasons I decided to immigrate. I did not see much



1 future for me in a country where
2 controls were becoming a way of life.

3 On to beautiful Canada. This
4 country was virtually a paradise in
5 comparison. In those days it seemed
6 logical for me to invest into real
7 estate as the perfect retirement plan.
8 I could be involved in my investment,
9 govern the property and at all times
10 I could know at what status my
11 retirement plan was. So in 1957 I
12 became a landlord again. It was with
13 this previous experience in housing
14 and a knowledge from my trade that
15 I was able to compete effectively in
16 the housing market. In 1964 I went
17 into the business full-time by
18 purchasing a rundown apartment build-
19 ing and saving 31 units from the
20 wreckers ball. Today due to the
21 negative changes made to the Landlords
22 and Tenants Act, the rent control
23 legislation and the rent review process
24 this would no longer be possible for
25 a young entrepreneur with limited



investment funds.

The land of opportunity seems to have become a distant memory. Alas this is not just detrimental to the would be landlord. Those 31 units would also have been taken off the housing market. In the late 60's the local rental industry experienced a number of expense hikes. Among the greatest increases were property taxes and energy costs. These drove the rents up and as a result placed the low fixed income tenant in financial difficulty. The government, misdiagnosing the problem, tried to remedy the situation by competing with the private sector. Not only did they build expensive units with our tax dollars, rent these units at deficit rates but also lured away tenants from the private sector.

For example, I lost my first tenant to senior subsidized housing in 1970 when a \$5 raise was too much for her.

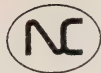


1 That apartment rented for \$65 but
2 rather than costing the government
3 \$5 in subsidies, she was forced to
4 move to a \$250 apartment paying \$39.
5 That included utilities. This
6 translates to a \$211 subsidy and a
7 lost tenant for me. The implication
8 should be clear. This action is
9 irresponsible as the government
10 forces a satisfied tenant out of their
11 home and costs the taxpayer at least
12 42 times in subsidy. Don't think this
13 is my only experience. I have many
14 more such cases and I still am losing
15 tenants today. June 1st, 1986 was
16 the most recent. Some of whom really
17 don't need the assistance but are
18 able to take advantage of the
19 government's blind generosity.
20 Despite this I was willing to compete
21 with the government so in 1972 I
22 bought another 24-unit building. I
23 would like to share an experience I
24 had with rent control on this one.
25 In 1976 as you know rent controls



1 were introduced as a temporary
2 measure. In 1977 after I had already
3 passed notices around for 8 per cent
4 increase, it was changed to 6 per cent
5 retroactively. This was impossible
6 for me to live with so I was forced
7 to go through rent review again.
8 I was asked for and was granted a
9 12 per cent increase although I
10 could have justified 16-1/2. I
11 was still optimistic that rent
12 control was temporary as promised
13 and through re-financing I could
14 resume business at the 12 per cent
15 increase instead of 16-1/2.

16 Also at that time competition
17 was keen. My increases were governed
18 by rents charged by other landlords.
19 However, since then competition has
20 almost disappeared and I have a long
21 waiting list for my apartments. I
22 believe this situation was created
23 through the controls the government
24 has imposed. Indeed I had at an
25 earlier time seriously considered



expanding this building as I have
interests in the adjacent property.
It is a pity that under today's
legislation I cannot realize this
expansion. The apartment shortage
has caused a situation where some
potential tenants are offering
incentives to the landlord to be placed
at the top of the waiting list.
I even have been asked to accept more
rent for the apartment if only I
would have rented to him. That is
how ridiculous this situation has
become. You may think that the short-
age of housing is even a desirable
situation for a landlord, but that
assumption would be wrong. It is
not a good climate for either the landlord
or the tenant and had the free
enterprise system not been tampered
with this situation would not have
arisen. It is not too late. Just as they
were phased in the controls could still be
phased out taking with them the mounting
problems and the astronomical amount of



bureaucratic cost. How can you justify creating legislation when those involved don't even understand what is involved?

Recently MPP David Cook was asked what he felt was a fair return on the equity of a building. His reply was that he wasn't sure what equity was. How can you justify creating legislation when those involved know what they are doing is wrong? Back in 1978 then MPP Ted Dowsell admitted that an average increase for rent legally granted by rent review was

14 per cent but voted in favour of lowering the rent increases from 8 per cent to 6 per cent. It is fortunate, however, that one politician has the courage to speak out and revise his party's position on rent controls. I am referring

to Mr. Grossman's statement quoted in the Toronto Star where he



1 advocates needing tenant protection
2 over the present system. A position
3 I could easily support. If the
4 manufacturing industry bases the
5 price of its products on the cost to
6 produce them, the service industry
7 bases the charge for services on the
8 cost to provide them. Then the rental
9 housing industry must be allowed to
10 follow the same business principle.
11 Contrary to popular belief landlords
12 are people and just as there are some
13 bad tenants there are a few bad
14 landlords, but of all the systems man
15 has ever developed, free enterprise
16 is still the best to remedy
17 injustices."

18 That was a letter written on May 28th.

19 Now that you know a bit about my father's background
20 and the feelings he and I share toward rent control
21 in particular I would like to throw a few more ideas
22 your way. I happen to be enrolled in the Bachelor
23 of Commerce program at the University of Windsor.
24 I also happened to bring to my father's attention
25 some passages in my first year economics book.



1 I would like to quote from a chapter
2 entitled "Ideas for beyond the final exam" and
3 this is a quote right from the book:

4 "One of the most fundamental ideas of
5 economics is that in a voluntary
6 exchange both parties must gain
7 something or at least expect to gain
8 something. Some people feel
9 instinctively that if Mr. A profits
10 handsomely from a deal with Mr. B
11 that Mr. B must have been exploited.
12 Laws sometimes prohibit mutually
13 beneficial exchanges between
14 buyers and sellers as when rental
15 housing units are eliminated
16 because the rent is too high. In
17 every one of these cases and many
18 more well intentioned but misguided
19 reasoning blocks mutual things
20 that arise from voluntary exchange
21 and thereby interferes with one
22 of the most basic functions of the
23 economic system."

24 Then in another section of the book, the book mentions
25 results from "attempts to repel the laws of supply and



1 demand." "The market strikes back" and I quote
2 directly:

3 "Where rent controls are adopted
4 to protect tenants housing grows
5 scarce because the law makes it
6 unprofitable to build and maintain
7 apartments. History provides
8 spectacular examples of this way in
9 which the free market strikes back
10 at attempts to interfere with the
11 way they otherwise would work.
12 Despite the many examples from
13 history many policymakers still call
14 for interference with the price
15 mechanism."

16 I don't want this to become a lecture on basic
17 economics, but I am glad to read that our way of
18 thinking is not crazy and shared by people educated
19 in a professional field. Low priced housing is what
20 government is attempting to protect but in placing
21 rent controls these are the very units where
22 shortages result.

23 I can back up my statement by a
24 very simple fact. By taking away incentives to
25 own low rent units we have seen in my father's



1 immediate vicinity of two city blocks 120 units
2 taken off the market. Most of these units -- where
3 most of these units stood are parking lots now. It
4 is very sad indeed when it is more profitable to
5 rent to cars than to people.

6 I should add that there are two
7 buildings with about 20 units each for sale in
8 this area and have been for years. At one point in
9 time it may have been in our interest to buy these
10 but now we may even have to put a for sale sign in
11 front of ours.

12 I would like to elaborate on a point
13 in the letter. I read that we have interests in the
14 property adjacent to the apartment building in
15 Leamington. Actually my husband and I bought that
16 property originally to expand with my father's
17 business, but with the unfeasibility of this we
18 decided to reconvert the rental duplex house back
19 to a privately owned single home. This in effect
20 has taken two more units off the market and put two
21 families back into the rental housing search.

22 This brings me to another point.
23 There is really no shortage for housing, just a
24 shortage for low rental housing. Let's face it
25 you can always find an apartment available for a high



1 rent. So is the vacancy rate really a good indicator
2 of a healthy industry? Who is to say that if the
3 vacancy rate is 5 per cent that most of that isn't
4 high rent units?

5 Again I say this because of personal
6 experience. When downtown Windsor had a high vacancy
7 rate a few years ago we had no vacancies in our low
8 rental unit. To go back to the quote in the
9 economics textbook concerning mutual exchange, I
10 believe that in this context the tenant is not a loser
11 in the mutual exchange but neither should be the
12 landlord. In this way it can be profitable for both.

13 For example, up until now we have
14 been able to offer services like furniture, air
15 conditioning and even my mom's vacuum cleaner and
16 have made all our own maintenance decisions, but
17 now that these are dictated by law we are forced
18 to make decisions that we know are bad for both our
19 tenants and our business but we must protect ourselves
20 in the eyes of the law.

21 I bring as an example the fact that
22 upgrading and non-essential repairs are no longer
23 performed until we know how the new legislation
24 will affect our business.

25 Let me talk a bit about the effect



1 of using percentages. You are probably aware that
2 much of the legislation is based on percentages.
3 I actually have three concerns in this regard. First
4 percentages widen the gap between high rents and low
5 rents. Low rents remain chronically low while high
6 rents mushroom. Obviously a 4 per cent increase on
7 a large amount will make that sum increase more
8 greatly than 4 per cent on a small sum. That is a
9 problem faced community-wide, but my second concern
10 is a direct problem. Within our own apartment building
11 in Leamington we have some apartments which are
12 slightly larger than the others. These apartments
13 were \$5 more. Most people never even noticed the
14 difference. Before rent control this \$5 differential
15 was maintained but afterwards because increases were
16 solely based on percentage of rent charged, this
17 gap has become \$11.05. Believe me, people are now
18 questioning whether a closet more is worth the extra
19 \$11 a month. This condition was created in our Windsor
20 building because of the timing of rent increases.
21 Some apartments were still increased under the 6
22 per cent legislation and some under the 4 per cent.
23 This is still fairly recent and the gaps are not
24 extreme yet, but I can foresee problems already.
25 Especially in the next few years.



1 The only way to stop this gap from
2 growing is to equalize the rents now, but since rent
3 review will not do this in most cases why should the
4 landlord take the loss? I don't think anybody would
5 be willing to take a cut in this situation,
6 businessmen or not.

7 My third and final concern I have
8 I would like to pose more as something to think
9 about. High rent buildings have relatively lower
10 maintenance costs per unit than low rent units. I
11 say this based on the fact that if you have to replace
12 an element on the stove or replace a tap it costs
13 about the same for parts and labour in either
14 building. Painting one bedroom apartments costs about
15 the same no matter what building it is located in.
16 So is it really fair to base all maintenance costs
17 solely on a percentage of the rent charged? Although
18 we hope to see Bill 51 passed intact it is a step
19 in the right direction, our ultimate hope is for
20 the government to realize that the only way to solve
21 the problems rent control has created is to abolish
22 it.

23 Now, I would like to focus on another
24 side of the problem. I have really only addressed
25 the financial side thus far, but one which is often



1 neglected in the people side. After all that is
2 a very important element in the discussion. Most
3 people don't want to live in government housing.
4 It is much too bureaucratic and impersonal. It also
5 carries with it a stigma nobody wants to have labelled
6 on them, but as stated in my father's letter by
7 creating a shortage in the low rent housing market
8 the government takes over building more government
9 units and perpetuates the problem. No one wants to
10 see the needy go without housing by subsidizing
11 individuals in the private sector the needy are
12 protected with dignity.

13 Something often overlooked is the
14 fact that furnished apartments have become more and
15 more scarce. This is one service from which the
16 tenant derives the greatest benefit, one which
17 will probably disappear altogether. No longer can
18 the rent of an apartment be adjusted according to what
19 it contained based on mutually agreed upon terms
20 between tenant and landlord. Soon rents will be in
21 a central registry and fixed in price. The nightmare
22 which will be created to adjust the rate for each
23 new tenant based on what furniture they need would be
24 too outrageous to maintain so the service will disappear.
25 We are now in the process of phasing it out.



1 Still talking about people we have
2 made an observation which must also be noted. The
3 way in which rent controls were introduced and the
4 way the legislation is one-sided towards the tenant,
5 confrontational attitudes have been created. At one
6 time tenants could ask for favours, receive them and
7 so too could the landlord. It was all more harmonious
8 back then. Now the landlord is pretty well powerless
9 to keep harmony even between tenants. If some tenants
10 are asked to turn down their radio because a neighbour
11 complained they outright refuse saying "Take me to
12 court." The only recourse is to do just that. In
13 the meantime you can lose a good tenant while an
14 agonizing situation persists.

15 In conclusion I would like to say
16 that there are countless more things to discuss.
17 This is more on a personal observation level. We
18 will leave the other major concerns to the large
19 scale landlords who can afford lawyers as spokesmen.
20 Please keep in mind that it is relatively easy to
21 make laws but we have to live with them, not only
22 with the laws themselves, but with the havoc they
23 wreak.

24 Thank you very much and I believe my
25 father would like to say a few more words.



1 MR. HESSE: In conclusion please
2 keep in mind that my situation presented here
3 today is not unique. There are hundreds of landlords
4 like me, some with only four units and others with
5 around 50. This type of landlord is most typical and
6 represents the majority. Although we are the
7 majority we are the least vocal. In 1975 we did not
8 speak out against the controls effectively. Only
9 now the big boys are threatened, i.e., new buildings,
10 we are getting hell from the more powerful brothers
11 so multiply my problem by all those landlords and you
12 will have the true enormity of this dilemma.

13 Thank you very much for your
14 attention. (Applause).

15 THE VICE-CHAIRMAN: Thank you very
16 much, Mr. Hesse and Mrs. Graham, for your presentation.
17 Your recommendations will be taken into consideration
18 Thank you very much.

19 MRS. GRAHAM: Thank you.

20 MR. HESSE: Thank you very much.

21 THE VICE-CHAIRMAN: Is Mr. Ernest
22 Weiss here?

23 MR. WEISS: I only have a very short
24 note beside my brief and I am going to make it short
25 but sweet.



1 THE VICE-CHAIRMAN: We appreciate
2 that. Thank you.

3 MR. WEISS: May I bring to your
4 attention ...

5 A SPEAKER: Louder.

6 MR. WEISS: Okay.

7 THE VICE-CHAIRMAN: Could you move
8 the mike a little closer?

9 MR. WEISS: May I bring to your
10 attention as a landlord one of the many problems in
11 Windsor. I own one building which is 39 units on
12 University Avenue. I owned it for the last 20 years.
13 Approximately 8 or 10 years ago we landlords had a
14 terrible vacancy problem in Windsor. At the time
15 the unemployment rate was also between 16 and 21
16 per cent. Older apartment owners like me had a
17 terrible time to find any tenants at this time which
18 approximately was in 1975 or the 1976 period. We
19 offered some of us free rent for one month or a free
20 trip to Florida or a free new television. You heard
21 about it from the newspapers. Of course the
22 repair and maintenance jobs had to be done
23 at this time too. Business had to go on good or
24 bad. At that time the landlord offered the most
25 reasonable rent to try to prevent bankruptcy and



1 trouble to no end. It had been years we
2 could not raise the rent and in Windsor we are some
3 of the oldest building owners way under the market
4 value of the apartment rents today.

5 For example, I am getting rent for
6 a one bedroom apartment which is a large living room,
7 full sized dining room, kitchen with fridge and stove
8 and bathroom, four-piece bathroom, all hardwood floors
9 and a laundry room naturally and free parking,
10 intercom system, at least four to five closets in each
11 unit and I am getting between \$280 and \$310 monthly.

12 It does not cover my investment and
13 I am getting the runaround from many tenants. Of
14 course the tenants is always right and the landlord
15 is always wrong. That is a proven fact. To cover
16 all the expenses I would like to have to get a rent
17 for not only me but all the landlords who own a
18 building which is over 40 years or so. Our building
19 is over 60 years of age. This means we need more
20 repairs than any other landlord.

21 I would have to get rent for the
22 above described unit nothing less than \$375 to
23 \$400 with four rooms and a bath which includes a
24 separate dining room. Not only a dining corner area,
25 but a real dining room. Two bedrooms, \$450, three



1 bedrooms \$475. This I suggest for an older unit.
2 If this rent is too much for some people the
3 government should help and subsidize who needs it.
4 To have an apartment today in the condition of mine
5 simply cannot exist. To call any serviceman
6 whatsoever it costs lots of money. A plumber is
7 \$40 an hour. Half an hour is already gone for
8 travelling time. This we have to pay for.

9 I would be glad to sell out and have
10 someone else have the headaches but because of the
11 low income I can't get the price for it. It is
12 not a pleasure anymore to own a building and the
13 government is very unfair to the landlords. In
14 my opinion I should be allowed to make a living too
15 after my hard earned investment and have the rent
16 brought up to today's market. This is not an
17 unreasonable request.

18 Thank you. (Applause).

19 THE VICE-CHAIRMAN: Thank you,
20 Mr. Weiss. Does anybody on the Committee have any
21 questions for Mr. Weiss? I see none. Thank you
22 very much for your presentation.

23 Thank you.

24 MR. WEISS: Thank you.

25 THE VICE-CHAIRMAN: Mr. Donald



1 Hillman, is Mr. Hillman present?

2 Welcome Mr. Hillman. I see you are the
3 President of the Dieppe Tower Tenants' Association.

4 MR. HILLMAN: Thank you very much.
5 This brief will be brief. You gave me a hard act
6 to follow with all these lawyers and landlords. I
7 do agree with some of their points and I disagree
8 with others. It is not our fault that they have
9 made bad investments. This brief here is made up
10 by a commoner, layman, we are not all Philadelphia
11 lawyers which you need to be to figure that formula
12 out, so this brief was made up by the tenants of
13 the Dieppe Tower building, which we are proud of.

14 We have no quarrel with our landlord.
15 It is the best building in the City of Windsor, but
16 the only thing that we have is we would like to
17 stop and see the increases in the rents continuing
18 year after year.

19 MRS. CAPLAN: Is your building
20 presently under rent control?

21 MR. HILLMAN: No, Ma'am. I am
22 pleased to see the Minister of Housing bringing in
23 a new system of guidelines for rent increases for
24 rental units in residential complexes. It is long
25 overdue and though it may not please some sectors,



1 I believe it is a step in the right direction.

2 I am speaking here on behalf of the
3 tenants of our building because I believe different
4 buildings may have different problems than others
5 and also different standards. We are people mostly
6 in fixed and middleclass incomes and we are looking
7 for affordable rental units enabling us to live out
8 our golden years in a fair rent situation.

9 We hope that Bill 51 will provide
10 this for us and furthermore it was a promise by the
11 legislature in the last election campaign. Bill 51
12 has some merits although it appears mostly in favour
13 of the landlords. I do not agree with having to
14 guarantee them 10 per cent of their investments. I
15 am sure other investors do not get as much guarantee.

16 Another in which they can derive
17 profit is through their write-offs, and rebates on other
18 items. It is said that no new rental units will be
19 built as long as there is rent controls. Well, we
20 have not had rent control in the last ten years and
21 there ain't any new buildings built since.

22 Bill 51 does not provide for the
23 removal of the rent increase once the landlord's
24 capital costs, financial costs, extraordinary costs
25 or hardship costs have been recouped. I have no doubt



Toronto, Ontario

1 that some of these costs will be included in the
2 formula. The tenants do not know when the landlord
3 applies for these increases and there is no way
4 they are going to reveal their current cost information
5 to the tenants. We must rely on the new rent
6 registry to agree or disagree with the landlord's
7 request. I know a tenant can appeal if he is dis-
8 satisfied with the rent review process but sometimes
9 this information may come a little too late to do
10 any good.

11 The guideline formula for computing
12 the rent review seems to be on the right track, but
13 when it is said that increases would be about 5.2
14 per cent I think that is too high. On top of the
15 rent that we are going to be paying in December of
16 1986, the rent in July of 1985 was much too high
17 and that is why we are here today.

18 The same applies for extra increases
19 as mortgage interest rates, financial cost, capital
20 costs, extraordinary costs not to mention the hard-
21 ship relief. Increases can be much higher than the
22 5.2 to 5.8 per cent. I must admit, however, that
23 this is better than allowing the landlords to have a
24 free hand and setting increases at 15 and 18 per cent
25 and even higher as some of them have been doing in the



1 past.

2 There is nothing in Bill 51 to
3 penalize the landlords for having broken the law
4 in the past or may do so in the future. The tenant
5 will not receive any increase on his overpayment
6 of illegal rent increases by the landlord. Such
7 overpayments might be paid back slowly, if at all.

8 What we need is an aggressive approach
9 to developing new housing which the legislature has
10 promised in the brochure "assured housing for Ontario."
11 We should subsidize and support production of more
12 than 43,000 new affordable rental units. We feel that
13 the rents are now high enough to cover all financing
14 and operating costs plus a good profit for the land-
15 lords.

16 It seems to me everyone wants to make
17 a fast buck, with no respect for other people. Let's
18 hope that this new system can be structured to meet
19 the true needs of both landlords and the tenants in
20 the province of Ontario.

21 I would like to add a little comment
22 on that, that we would like to say that we stand
23 behind and support the brief given by the Amherstburg
24 Tenant Council which was given earlier this afternoon.

25 Thank you gentlemen, and lady.



1 THE VICE-CHAIRMAN: Thank you,
2 Mr. Hillman. (Applause).

3 Your presentation has provoked
4 a question from Mr. Bernier.

5 MR. BERNIER: Thank you,
6 Mr. Chairman. Mr. Weiss, I was very interested in
7 your comments, very straightforward I might admit.

8 Mr. Hillman, yes, you made a comment
9 about the return on investment. You thought that
10 10 per cent was too high. Do you have a figure in your
11 mind that you think a landlord should get?

12 MR. HILLMAN: I think a bond issue
13 would be a fair return on their investment, whatever
14 the bond issue is, 9 per cent, 8 per cent.

15 MR. BERNIER: Your investment
16 certificates now are running 10 per cent.

17 MR. HILLMAN: Ten per cent?

18 MR. BERNIER: You are looking at 8 or
19 9 per cent?

20 MR. HILLMAN: Yes, sir.

21 MR. BERNIER: Is your tenants'
22 association aware that if Bill 51 goes through and
23 section 89 is approved as it is written, then there
24 is that possibility in some cases where increases
25 could come in in the first year as high as 12 per



1 cent or maybe 15 per cent.

2 MR. HILLMAN: I know that. That
3 is why we are disagreeing with the 5.2 per cent. I
4 can assure you, as I say, we have no quarrel with
5 our building. It is the best building in the City of
6 Windsor as I stated before. The only thing that
7 we would like to control is this rent from going
8 higher each year. Some of our older tenants have
9 to move out and we are getting younger ones in. The
10 place is always filled up and it is in good shape
11 all the way through. We would like to have some
12 kind of control of this rent so it does not jump
13 up year after year where we have to use our savings
14 or spend all the money back into the landlord's
15 building for what we have sold our home for.

16 Years ago they told us to sell your
17 homes and make room for families in your houses. So
18 we go into apartments and now that was fine a few
19 years back when interest was good and we were making
20 ends meet, but now interest is down and rents are going
21 sky high and we have to dig into our savings and
22 this is quite a jolt year after year after year.
23 Where is it going to stop gentlemen, and ladies? It
24 has got to stop some place or slow down. Thank you.

25 THE VICE-CHAIRMAN: Mr. Pierce --



1 Mrs. Caplan has a question.

2 MRS. CAPLAN: What kind of increases
3 has your building experienced in the last year?

4 MR. HILLMAN: They are going up
5 12 to 15 per cent.

6 MRS. CAPLAN: On an annual basis?

7 MR. HILLMAN: On an annual basis,
8 yes.

9 MRS. CAPLAN: We heard last night
10 from a tenant representative on the RRAC Committee
11 that during their discussions and deliberations
12 their view of this Bill is that by including those
13 people who are not now covered they can ensure that
14 the increases will be lower than they have been in
15 the past and that can provide them with a kind of
16 protection. Without this Bill do you feel that you
17 don't have any protection?

18 MR. HILLMAN: Yes. Without the Bill
19 I feel maybe the landlords could push it up to 20
20 or 24 per cent. I know in some buildings they have
21 done that. But we do have a good landlord at the
22 time and we hope he doesn't go hog wild and we hope
23 to have some control on it.

24 MRS. CAPLAN: The other thing we
25 have heard and the question I have asked before is



1 that this Bill was recommended to the Minister
2 by the RRAC Committee composed equally of landlords
3 and tenants. We know there are some parts of it
4 that tenants feel are too good for landlords and
5 the landlords have come forward and said there is
6 too much tenant protection here. You have expressed
7 the point of view I think in your representation that
8 your concern is that it was too generous to the
9 landlord. I guess what I am saying to you is whether
10 or not you support the recommendations of the RRAC
11 Committee that this would achieve a balance and if
12 it was a choice of killing this Bill and keeping --
13 trying to find something else or proceeding with this
14 and having the ongoing dialogue is there enough
15 protection here in your view to warrant the passage
16 of this Bill at this time so we can get a better
17 deal for everyone?

18 MR. HILLMAN: Yes, providing the
19 registry doesn't go along with the increases from the
20 landlords who want their capital cost and this
21 capital cost may not be recouped after the fridges
22 and stuff is all paid for, carpet put down or a new
23 roof put on a building. When this has all been paid
24 for there is nothing to say that they will take
25 that 2 per cent or 5 per cent off.



1 MRS. CAPLAN: My question is would
2 you support an ongoing RRAC Committee to recommend
3 those kinds of issues to the Minister or would you
4 prefer to have the discussion in the legislature and
5 with the Minister of Housing directly with individual
6 groups...

7 MR. HILLMAN: I don't quite understand
8 you there, Ma'am.

9 MRS. CAPLAN: Right now there is a
10 Committee of landlords and tenants, representatives,
11 leaders from both who are making recommendations
12 to the Minister on behalf of the different
13 constituencies.

14 MR. HILLMAN: I realize that.

15 MRS. CAPLAN: Do you feel that is
16 working well enough or do you feel instead of that
17 you should be looking at individual representations
18 or people writing in ...

19 MR. HILLMAN: I think what you are
20 doing there is fine and I would go along with that.

21 THE VICE-CHAIRMAN: Thank you.
22 We have more questions. Mr. Reville.

23 MR. REVILLE: Thank you,
24 Mr. Hillman. It is good to hear from a post-75
25 building. We haven't seen too many. We have had



1 about 40 tenant groups before us but most of them
2 have been from the older buildings. I guess you are
3 pretty glad that it looks like rent review is going
4 to finally protect you to some extent?

5 MR. HILLMAN: I hope so.

6 MR. REVILLE: Yes, okay. In terms
7 of Mrs. Caplan has wanted you to answer whether you
8 think the Bill should be killed or not, I think the
9 Bill can probably be fixed and I don't believe the
10 Bill is going to be killed, I don't believe the
11 Tories are going to vote against rent review and
12 we are certainly not going to vote against rent
13 review. It is not a question of killing the Bill
14 but there is a possibility we can fix it up and
15 it seems to me the government made a pretty clear
16 promise they would cover you with a 4 per cent guide-
17 line and it is not here, it is not in this Bill.
18 Does that bother you at all?

19 MR. HILLMAN: Not really. I go
20 along with -- 5.2 per cent I say is a little high.

21 MR. BERNIER: Or 12?

22 MR. HILLMAN: But it is a lot better
23 as I say than letting the landlords having a free
24 hand.

25 MR. REVILLE: It is sure better than



1 the 20 per cent you are getting. You are worried
2 about some of the other financial parts of this
3 package where you might get 5.2 and then plus and
4 then plus?

5 MR. HILLMAN: The 2 per cent I
6 would say we might be able to do away with that if
7 it is possible, do away with the 2 per cent as the
8 Amherstburg Tenant Council has agreed. I say we
9 go along with their recommendation in the brief.

10 MR. REVILLE: That would reduce
11 the guideline by a bit.

12 MR. HILLMAN: Yes, sir.

13 MR. REVILLE: The Committee that
14 Mrs. Caplan spoke of looks like it is going to
15 continue. Do you think we are going to get another
16 crack at this stuff for a while or do you think this
17 is about what we are going to do for the time being?

18 MR. HILLMAN: I really can't say. I
19 hope it carries on and comes to a solution between
20 the landlords and tenants. There has been a lot of
21 friction between a lot of landlords and tenants
22 and I hope it comes true to be satisfied for both
23 parties so we can live peacefully with one another.

24 MR. REVILLE: Thank you very much.

25 THE VICE-CHAIRMAN: Mr. Pierce.



1 MR. PIERCE: Some of my questions have
2 been answered and one of course is that your building
3 was not presently under rent control. Is that right?

4 MR. HILLMAN: That is right, sir.
5 It was built in 1976 or 1975. No it was built --
6 we didn't move in until '78 or '79.

7 MR. PIERCE: You indicated a number
8 of -- first of all how large is the building?

9 MR. HILLMAN: 150 units.

10 MR. PIERCE: You indicated a number
11 of the tenants were senior citizens and as a result
12 of rent increases they have since had to move out.
13 Can you give me an idea what your rents are that
14 are presently being charged for one bedroom and two
15 bedroom?

16 MR. HILLMAN: One bedroom is \$475 to
17 \$525 and two bedroom is \$575 or \$600. We don't
18 have three bedroom.

19 MR. PIERCE: There are no three
20 bedroom so there are not that many families living
21 in the building then?

22 MR. HILLMAN: It is more an adult
23 building. It is an adult building.

24 MR. PIERCE: By your own admission
25 this has allowed the landlord to maintain a good



1 decent building security-wise and well as maintenance-
2 wise.

3 MR. HILLMAN: We have a lot of good
4 workers in the building who keep it in first class
5 shape.

6 MR. PIERCE: People are proud of the
7 building and they are happy with the landlord
8 but they have some fear that without rent controls
9 the rent would escalate to a point where they
10 couldn't afford to live there anymore?

11 MR. HILLMAN: Yes, sir.

12 MR. PIERCE: It is your belief that
13 the landlord can continue to maintain the building
14 at the present level under rent control?

15 MR. HILLMAN: I believe so. The
16 building operational cost in our building is not
17 all that great outside of -- from what we can see.
18 The landlord is not going to come and tell you
19 what his finances are, but the municipal taxes is
20 one of the biggest things and of course the hydro
21 and outside of maintenance of the building it is
22 very minimal.

23 MR. PIERCE: Do you pay your own
24 hydro?

25 MR. HILLMAN: No, sir.



1 MR. PIERCE: It is included in your
2 rent?

3 MR. HILLMAN: Yes, sir.

4 MR. PIERCE: I think you said last
5 year your increase was 13 per cent?

6 MR. HILLMAN: Some was 13 and some
7 was 16. It varies. Sometimes he goes through and
8 puts it up like last month now he went through at
9 9 per cent. Now this month I understand he is going
10 to go back up again and it may be 12 per cent.

11 MR. PIERCE: You have to give me a
12 little better explanation. Does he raise the rent
13 every month?

14 MR. HILLMAN: What I mean, sir,
15 every month because there is different units that
16 are being -- their warranty or their anniversary
17 date is up.

18 MR. PIERCE: I see. Okay. I have
19 no other questions, thank you.

20 THE CHAIRMAN: Thank you.

21 MR. PIERCE: Thank you, Mr. Hillman.

22 THE CHAIRMAN: Mr. Hillman, thank
23 you very much for your presentation. (Applause).

24 The next presentation is from
25 Cal Schincariol. Am I pronouncing that correctly?



1 MR. Schincariol? Has anyone seen
2 him? If he is not here is Mr. Fitzpatrick here?
3 Perhaps we could go ahead with Mr. Fitzpatrick and
4 if Mr. Schincariol shows up we can slot him in last.

5 Mr. Fitzpatrick, welcome to the
6 Committee.

7 MR. FITZPATRICK: Thank you,
8 Mr. Chairman.

9 THE CHAIRMAN: Your brief is being
10 distributed now if you would proceed when you are
11 ready.

12 MR. FITZPATRICK: Mr. Chairman,
13 some of the things I have to say today are repetitious
14 to some of the previous speakers, but we as landlords
15 do have common problems and perhaps it is worthwhile
16 to repeat some of our concerns.

17 Mr. Chairman, Committee Members,
18 my name is Ken Fitzpatrick and I am the Executive
19 Vice-President of Danzig Enterprises Ltd., a company
20 that has been actively involved in the ownership and
21 management of apartment buildings here in the City of
22 Windsor for over 25 years.

23 Our company is a member of the Sun
24 Parlour Income Property Association, a local group
25 made up of a large majority of the small and mid-



1 sized landlords in the Windsor and surrounding
2 area. We also are a member in good standing of
3 the Fair Rental Policy Organization of Ontario,
4 an organization which was organized to represent
5 the interests of the housing industry in the multi-
6 lateral efforts to develop a sound, equitable,
7 lasting rental housing policy for all the people
8 of Ontario and one you are no doubt very familiar
9 with.

10 Quite frankly, Mr. Chairman, when I
11 first became aware that such a hearing as this was
12 going to be held in Windsor I was very reluctant
13 to participate for several reasons.

14 Firstly our company has tended to
15 maintain a low public profile and so I have not had
16 much of an opportunity to speak at a forum such
17 as this, so please bear with me.

18 Incidentally, before I proceed any
19 further I wish to compliment the provincial
20 government on allowing people such as myself to
21 voice our concerns regarding such a sensitive and
22 far reaching issue. Such an approach can only be
23 a benefit to all concerned.

24 Secondly and perhaps most significantly I have
25 perhaps rightly or wrongly the perception that the
 input of the individual has so little effect on
 the decision-making of politicians in this province
 as not to warrant the time and effort involved in



1 hearings such as this.

2 I was, however, convinced by the
3 Fair Rental Policy Organization that this process
4 you are undertaking is different, that this time
5 there is a real political will to avoid the supply
6 crisis that anyone with even limited vision can
7 see taking place.

8 Additionally, of course, our
9 company's economic future and direction could very
10 well depend on the outcome of this hearing.
11 Therefore I felt somewhat compelled to get involved.
12 As I understand it, this Committee is here solely
13 to hear comments on Bill 51, so I will restrict
14 myself to that. I am sure you have heard plenty of
15 horror stories regarding rent controls caused for
16 tenants and landlords alike.

17 This is why it is so vitally
18 important that you fully understand and appreciate
19 the sort-term and long-term consequences of any
20 policy governing rent controls in our province.

21 If you were to ask any landlord
22 whether he preferred to operate under rent controls
23 or not, he would very emphatically say no - and
24 it is quite easy to understand why since any form
25 of control is so contrary to the free enterprise
system that entrepreneurs are accustomed to.

 However I believe the majority of
landlords now realize that rent controls will have



1 to be accepted as a fact of life in Ontario.
2 Experience has demonstrated that when government
3 become involved in rent controls it is extremely
4 difficult for them to get out, however unsatisfac-
5 tory the consequences of their existence may have
6 been.

7 Frankly we need Bill 51 if we are to
8 even start to sort out the housing problems facing
9 all major communities in this province, including
10 our fair city of Windsor. We need it in a form
11 that adequately protects the interests of the
12 landlord and provides reasonable and workable
13 solutions to the problem of supply.

14 In my opinion the recommendations
15 contained in the Report of the Rent Review
16 Advisory Committee (commonly referred to as RRAC)
17 to the Honourable Alvin Curling, Minister of
18 Housing in April, 1986 best reflect these goals.

19 I say this after reflecting that this
20 Committee was specifically appointed to review the
21 aspect of rent controls in Ontario; that the
22 Committee members were selected so that the
23 interests of the landlord and tenant were equally
24 represented and that the members negotiated over a
25 six-month period before reaching an agreement. It
just makes sense to me that this Committee's
recommendations should be very seriously considered
and adopted as the best solution available at the



1 present time.

2 So, what do we like about Bill 51?

3 Let me tell you a little bit about
4 Windsor first. As I have mentioned earlier, our
5 company is involved in the city as a landlord and
6 has been for over the last 25 years.

7 We presently own and manage a large
8 number of apartment units located throughout the
9 city of Windsor. Approximately 3/4 of these units
10 have been built after 1976.

11 In 1978 and 1979 our city went
12 through a building boom. The economy was bright
13 and rosy and even the worry about future extensions
14 of controls wasn't enough to stop construction. We
15 ourselves brought on stream approximately 250 units
16 in 1979 and initiated a 400 unit apartment/commercial
17 complex during one of Canada's worst economic
18 times when interest rates reached over 20 per cent.

19 We are very aware of what risks
20 investors take in constructing apartment buildings
21 and what time and effort is involved to effectively
22 and efficiently manage them during times when
23 market conditions are at their worst.

24 What landlord will soon forget double
25 digit inflation, high interest rates and an over-
built rental market in which the only way you could
rent a unit was to offer two or three months of
free rent or give away trips to Florida or television



1 sets? I am not the first person to say that. Then
2 the recession hit. The overbuilding so reduced
3 rents that we were locked into loss positions; we
4 couldn't raise rents because of the competition.

5 As rent controls were gradually
6 tightened, our economic situation became worse.
7 Unless we get the relief promised in Bill 51,
8 landlords will be locked into these losses for years.
9 It's tough to walk away from your investment, but
10 if asked most landlords today would say they would
11 prefer to be out of the industry unless the
12 situation is improved.

13 We often hear how our city has a
14 housing crisis, what with a vacancy factor of 0.5
15 per cent.

16 Based on our knowledge of the
17 situation the problem is not that there are not
18 enough apartment units available, the problem is
19 that there are not enough affordable units available
20 to those who need them.

21 The relatively inexpensive rent-
22 controlled apartments are occupied by people who
23 don't need them. The young, the aged, who have
24 sold their homes to escape the problems of maintaining
25 them, the poor, can't get into rent-controlled
units and are forced to find accommodation in new,
more expensive ones.

If you have a rent-controlled unit in



1 Windsor, you'd be foolish to give it up.

2 We know of many cases where tenants
3 on average are paying 10 per cent of their incomes
4 for rent in such buildings. Contrast this, if you
5 will, with provincially and municipally owned
6 apartments that require approximately 29 per cent
7 of the occupant's income to be applied toward the
8 cost of shelter. Landlords in essence subsidize
9 tenants in rent-controlled buildings and for this
10 reason they'd be crazy to move to a more modern
11 building and let the next generation move up,
12 freeing their old units for the people in the
13 economic level below them.

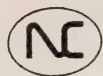
14 The trickle-down factor as it is
15 known just doesn't work in such an environment.

16 Many prospective tenants today
17 are specifically asking whether the unit they are
18 applying for is under rent controls. Surely this
19 must be telling us something.

20 Because of these factors there isn't
21 much new building going on here and we sure need it.
22 Traditionally at the rental vacancy rates that we
23 have today you would see ample new construction.

24 Why are we not seeing it?

25 Our corporate philosophy with
respect to buying or constructing an apartment
building is to establish a relationship between risk
and return given the economic climate of the day.



1 If the criteria are met, the decision to invest is
2 made. We have always accepted the fact that
3 nothing is for certain and that a good business
4 decision today may be less than satisfactory
5 tomorrow. However, when governments start changing
6 the rules of the game in midstream by arbitrarily
7 imposing controls and constraints on my ability
8 to earn a reasonable return, then why get involved?
9 There are lots of other avenues available for our
10 investment dollars. This is eminently evident by
11 the fact that the major developers of the 60's are
12 no longer involved in the multi-residential
13 industry. Who can blame investors for wanting to
14 protect their capital?

14 Would any member of this Committee
15 want to invest a million dollars and not earn a
16 return on their equity? I dare say not.

16 What will it take to again see new
17 apartment buildings being constructed?

18 If this Committee approves Bill 51,
19 and if it amends it to reflect RRAC, which was a
20 pretty reasonable approach to solving everybody's
21 problems, I think you'll see a significant change.

22 Builders must become confident that
23 members of parties forming the government are
24 committed to fair treatment of landlords and will
25 not arbitrarily change the rules again.

We simply cannot afford to have rent



1 controls used as a political ploy any longer.
2 They must make economic sense to work.

3 You won't see new construction
4 immediately. It will take maybe two or three years
5 and a track record of stability of application. But
6 by then investors and developers will be able to
7 judge whether or not Ontario really wants them as
8 part of its rental housing program.

9 As I see it, this Committee has to
10 balance off two interrelated problems: supply and
11 affordability. You can't work on one without the
12 other being affected. To say, as has been suggested
13 to this Committee earlier, that Bill 51 should simply
14 deal with affordability is nonsense.

15 Rents determine rate of return for
16 investors: rate of return determines investor
17 interest and investor interest determines supply.

18 The Committee, no matter what its
19 political bent, also has to come to grips with the
20 simple economic fact that government can't afford
21 to build all the rental units needed in Ontario.
22 That means, like it or not, private industry must be
23 convinced to meet part of the demand.

24 The ostensible justification for rent
25 controls is that they protect the poor from
exorbitant increases in the cost of shelter. But
rent controls are a blunt instrument that benefit
the well-to-do even more than they help the poor;



1 there are other devices, such as shelter allowances,
2 that could be used to help need families meet their
3 housing requirements more effectively than rent
4 controls and that would preserve the incentives
5 for private investment in rental accommodation.

6 Without subsidy private industry
7 can't meet the lowest end of the demand scale. It's
8 not our fault provincial and municipal rules and
9 regulations have either made unavailable or driven
10 up the price of land and construction. Without
11 concerted effort to change our entire regulatory
12 approach to residential rentals, private industry
13 can't help those with the biggest problem.

14 So, common sense dictates that
15 government spend its money on ways to help those
16 that private industry can't. Common sense also
17 dictates that government encourage private industry
18 to provide housing for those who don't need a
19 subsidy.

20 The kernel of that approach is
21 contained in Bill 51. Mind you, it's only the first
22 step. Bill 51 doesn't help about 30 per cent of
23 the people who have very real and pressing afforda-
24 bility problems. This is why an effective companion
25 shelter allowance program is needed.

We don't need more direct government
involvement in the housing industry since invariably
this results in higher housing costs footed by the



1 taxpayer.

2 As I said, however, one of the
3 reaons we can live with Bill 51 is that it is the
4 beginning of restoring common sense to the market-
5 place. It is long overdue.

6 There are several other positive
7 elements about Bill 51.

8 (a) the rent review process will be
9 much improved over the present system
10 which creates such an adversarial
11 relationship between the landlord and
12 the tenant.

13 (b) equalization allows landlords to
14 charge similar rents for similar
15 apartments which will help to alleviat
16 the confusion that tenants now have
17 with respect to rent structures in
18 certain apartment buildings.

19 (c) the ability to recognize
20 maximum legal rent in addition to
21 current rent will be extremely impor-
22 tant to landlords who may miss
23 statutory increases because of market
24 conditions to catch up when the
25 marketplace improves.

(d) there is recognition for return
on equity. However the return allowed
to pre-76 buildings is inadequate.



1 In our view the new legislation should
2 be trying to promote investor confi-
3 dence in the housing industry which
4 will hardly be the case with such a
5 discriminatory policy.

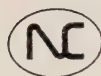
6 (e) the fact that the maximum allowed
7 increase in the rental rates will not
8 be fixed at some arbitrary figure but
9 will change annually based on the
10 R.C.C.I. formula is a welcome
11 addition. However there is the real
12 apprehension on the part of investors
13 that this formula will be implemented
14 in its entirety during times of
15 declining inflation but during times
16 of accelerating inflation there will
17 be political pressure to revise the
18 formula, such as we are experiencing
19 now.

20 (f) the proposed legislation calls
21 for the creation of a Residential
22 Rental Standards Board which will be
23 empowered to develop and establish
24 appropriate maintenance standards to
25 apply to all residential complexes.
We believe the majority of landlords
do acknowledge their responsibility to
tenants for proper maintenance.



1 However the landlord, providing he is
2 meeting the minimum standards, must
3 have his rights as a property owner
4 recognized or once again investors
5 will seek other avenues for investment
6 rather than be involved in such a
7 controlled environment. The tenant
8 only has a short-term perspective
9 basically because their unit only has
10 value to them as long as they live
11 in it. The landlord however must
12 think of the building as a whole and
13 prioritize his maintenance in an
14 order that first protects the integ-
15 rity of his investment and then next
16 increases the value of his investment.
17 I believe, as I think most landlords
18 do, that you must listen to your
19 tenants, just as you politicians must
20 listen to voters. But having
21 listened, landlords must have the
22 right to make the decisions, just as
23 politicians do.

24 Today I have discussed only a few of
25 the concerns landlords are confronted with by Bill 51
in its present form. I trust other groups, organi-
zations and individuals throughout our province have
raised additional issues that deserve your continued



1 undivided attention.

2 Finally, I'd like to say I recognize
3 the difficulties this Committee has.

4 The 900,000 Ontario households who
5 are reported to be living in accommodations covered
6 by rent controls are a powerful special-interest
7 group -- much more powerful in political terms --
8 than the private sector critics of rental controls.

9 Both groups are asking for something
10 to benefit their own cause but the trouble is the
11 government doesn't have the resources to satisfy
12 every last wish to the letter.

13 I ask this Committee to show real
14 leadership and decide on the basis of a lasting
15 solution to our housing problems. Give tenants
16 security and reasonable rent increases; give land-
17 lords a stable regulatory environment and the
18 wherewithal to earn a reasonable rate of return.
19 Give us all a common sense approach to maintenance
20 problems.

21 The R.R.A.C. agreement represents
22 the most reasonable approach offered so far. Give us
23 Bill 51 in a form that reflects that.

24 I would like to thank you for the
25 opportunity to address you today on this very
important and complex matter.



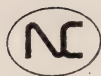
1 THE CHAIRMAN: Thank you,
2 Mr. Fitzpatrick.

3 There are a couple of members who
4 have indicated an interest in asking you a question
5 or two. Mr. Epp.

6 MR. EPP: I appreciate the brief
7 you prepared and presented and the moderation you have
8 shown and so forth and the fact that you are
9 supporting Bill 51 with some reluctance I understand.

10 I just wanted to get into this point
11 of shelter allowances. This is not something that
12 is new in Windsor but has been raised in my home area
13 of Kitchener-Waterloo and was raised in London and
14 raised in Kingston and Ottawa and so forth.

15 It is something I can understand
16 where the people are coming from on this, but one
17 of the problems is that it is kind of an open pit.
18 When government gives money to help a particular
19 building they know how much money they are giving
20 toward that building, whether it is \$5,000 a unit
21 or \$10,000 or whatever. When you get into shelter
22 allowances to the best of my belief nobody knows
23 what it is going to cost the government and the
24 government is very, very reluctant to get into a
25 position where the sky is the limit so to speak,



1 where they really don't know how much a particular
2 program is going to cost.

3 MR. FITZPATRICK: You are talking
4 about budget purposes?

5 MR. EPP: I am talking for budget
6 purposes. As assistant to the Treasurer I have to
7 give some thought to that too and we have about a
8 \$30 billion budget in Ontario right now and to get
9 into that kind of situation it is just like nobody
10 can give us an intelligent kind of estimate as to
11 what it is going to cost, whether it is going to cost
12 \$300 million or \$500 million or a billion dollars
13 or whatever it is going to cost and then the ball keeps
14 on rolling.

15 MR. FITZPATRICK: Isn't the problem
16 what do we do with those people who are looking
17 for accommodations, what do we do with them?

18 MR. EPP: Well, it is a problem, yes.

19 MR. FITZPATRICK: I, as a landlord,
20 don't go looking for problems.

21 MR. EPP: I, as a politician, don't
22 go looking for them either.

23 MR. FITZPATRICK: But you are
24 confronted with them and you have to deal with them.
25 What we are suggesting if supply is a problem, if



1 you physically need units on the market to accommodate
2 these people private enterprise will build them, but
3 they will only build them if they are assured a
4 reasonable return.

5 MR. EPP: One of the things which
6 we are trying to do through this Bill, of course,
7 is to provide a more reasonable return so that
8 units will be constructed across the province and
9 I think we have it from the landlords and tenants,
10 particularly from the landlords that this probably
11 will happen although nobody knows absolutely for
12 sure.

13 I think some of this is tied partly
14 to what is happening in the local economy because,
15 you know, if the local economy is fairly vibrant
16 I think there may be more units built. If it is not,
17 then there may be fewer built.

18 MR. FITZPATRICK: I think we have a
19 reasonable vibrant community here. I think the
20 biggest thing is trust. What you politicians are
21 saying is trust me. I will not do to you what I did to
22 in the past. We have got legislation proposed here
23 under Bill 51 that allows you a reasonable return
24 and has been negotiated between the landlord and
25 tenant group. Trust me. That is why I have indicated



1 even if Bill 51 is passed with a provision for
2 reasonable return you are not going to see people
3 jumping on the bandwagon and starting to construct.
4 You have got to realize that if we are talking about
5 a 400 apartment building that is \$10 or \$20
6 million. That is a lot of money.

7 MR. EPP: I guess what we would like to
8 see because this is a very unique situation with the
9 landlord and tenant representatives having agreed
10 to this, what we would like to do is seek some kind
11 of stability in the market and what I hear across
12 the province is that if we can inject that stability
13 into the situation then there is going to be more
14 trust and hopefully there will be units built.

15 MR. FITZPATRICK: I say to you if
16 you develop that trust and it is going to take time
17 to develop that trust.

18 MR. EPP: We have tried.

19 MR. FITZPATRICK: Yes. It doesn't
20 work out. If it happens again any hearings like
21 this are going to be absolutely useless.

22 MR. EPP: I appreciate that.
23 The Chairman is tapping my shoulder and I ...

24 THE CHAIRMAN: Mr. Bernier.

25 MR. BERNIER: Thank you very much,



1 Mr. Chairman. I want too to congratulate you on
2 a well prepared brief and well delivered.

3 MR. FITZPATRICK: Thank you.

4 MR. BERNIER: You were here when the
5 gentleman Mr. Donald Hillman made his presentation?

6 MR. FITZPATRICK: Yes.

7 MR. BERNIER: He made the comment he
8 thought 10 per cent was too high a rate of return.
9 You may not want to answer this question, but what
10 does your company look to as a fair rate of return
11 on an investment?

12 MR. FITZPATRICK: That is an unfair
13 question. What we have to look at is the risk,
14 return with risk. If you look at an investor coming
15 in he has got a choice, he has got a million dollars
16 so he has a choice. It goes in Canada saving bonds
17 and it is no risk or term deposits, no risk, fully
18 guaranteed by say the Government of Manitoba...

19 MR. BERNIER: Be careful.

20 MR. EPP: He can relate to that
21 because he is Conservative.

22 MR. BERNIER: Say Saskatchewan.

23 MR. REVILLE: Say it fast.

24 MR. FITZPATRICK: If he is able and
25 that return changes and if we are talking 8 to 10 per



1 cent now with absolutely no risk what investor is
2 going to come in and plunk down a million dollars
3 for an apartment building that he has got to live with
4 24 hours a day, that he is under controls and is
5 restricted in his return if he cannot get a return
6 that is comparable with the risk? What we have got
7 to be looking at is at least four or five points
8 for risk, risk taking and you are not going to get
9 it. You know, no investor is going to come and look
10 at it because why would they? I mean I don't know
11 if you ever owned apartment buildings but it is a
12 24-hour a day job. Living in a single household is
13 one. If you have got 400 in one spot it is 400 house-
14 holds.

15 THE CHAIRMAN: Mr. Bernier?

16 MR. BERNIER: That is fine. Thank you.

17 THE CHAIRMAN: Mr. Cordiano.

18 MR. CORDIANO: Thank you for appearing,
19 Mr. Fitzpatrick. I just want to very briefly deal
20 with a point that you made on page 9 of your brief
21 I believe in section (e) the comment on the RCCI
22 formula, the apprehension on the part of investors
23 because as you say here inflation is declining and I
24 will just quote what you are saying:

25 "...this formula will be implemented



1 in its entirety during times of
2 declining inflation but during
3 times of accelerating inflation
4 there will be political pressure
5 to revise the formula..."

6 I don't quite follow that.

7 MR. FITZPATRICK: I will give it to
8 you in very simple terms. When buildings were under
9 rent control and increases were restricted to 6 per
10 cent we were dealing in rates of inflation, double
11 digit inflation. Within the period of much of the
12 concern for the landlords when their costs, the
13 costs they were experiencing were much in excess of
14 that. However, when inflation started going down
15 and it has been dropping and dropping, now 4 per cent,
16 all of a sudden we have got an allowed increase of
17 4 per cent. It goes only in one direction and that
18 is what I am saying, that the landlords know the
19 treatment they have received in the past. Can you
20 trust anyone?

21 MR. CORDIANO: Thank you. What I
22 want to suggest to you is the guidelines in times of
23 lower inflation, in fact listening to the gentleman
24 earlier he told us the guideline would be 100 per
25 cent of a buck which would be tied to the real cost



1 of what a landlord would have to face. But in fact
2 what the guideline is doing in times of lower
3 inflation is giving the landlords an opportunity
4 to make the necessary maintenance improvements to
5 the buildings, but there is a bit of a cushion there
6 for landlords to improve maintenance, upgrade the
7 buildings when there is in fact lower rates of
8 inflation when in effect the opposite is true
9 the RCCI formula allows the possibility-- well,
10 in fact when inflation is high then the guideline
11 would be somewhat below inflation and will cushion the
12 tenants from higher rates.

13 MR. FITZPATRICK: I am not question-
14 ing the mathematics of the formula if it is
15 implemented in its entirety. The problem is the
16 political pressure that tenants can put on and there
17 are a lot more tenants than landlords, if inflation
18 gets up to 10, 12 or 18 or 15 per cent, you are
19 going to see a great hue and cry that the landlords
20 are allowed to increase their rents by those figures.
21 That is my concern.

22 MR. CORDIANO: Okay. I am just
23 saying that the formula cushions tenants in periods
24 of high inflation. Once you get beyond 6 per cent
25 then the guideline will be below the inflation rate.



1 MR. FITZPATRICK: Still if you are
2 talking -- if it is 15 per cent, two-thirds is 10
3 and you get 12 per cent.

4 MR. CORDIANO: No.

5 MR. FITZPATRICK: That is two plus
6 two-thirds of 15, but it is still 12 per cent.

7 MR. CORDIANO: What I am saying to you
8 is that that cushions tenants from the rate of infla-
9 tion.

10 MR. FITZPATRICK: They are still
11 going to complain about 12 per cent interest rates.

12 MR. JACKSON: On top of the 12 there
13 is other ways of increasing it.

14 MR. FITZPATRICK: That is all I am
15 saying, the mathematics we are talking of one or two
16 points below or one or two points above. That isn't
17 the crux. It is when you get up to 12 and 14 it
18 is nothing...

19 MR. CORDIANO: We hoped we never see
20 those kinds of rates of inflation.

21 MR. FITZPATRICK: We hoped that in
22 1978 and '79.

23 MR. CORDIANO: No. This takes
24 into account high rates of inflation and low rates...

25 MR. FITZPATRICK: I have no concern



1 with the formula if it is implemented. All I am
2 saying is if we pass this what is going to happen
3 is don't you guys back down when inflation goes up.
4 That is what I am saying.

5 MR. CORDIANO: Okay.

6 THE CHAIRMAN: Mr. Gordon?

7 MR. GORDON: We have heard quite a
8 few submissions from the Fair Rental Organization
9 and I must say you have been very candid in yours,
10 but perhaps a little more candid than some of the
11 others, but you know when you talk about trust I
12 always get a little nervous when I hear people telling
13 me, you know, they are not going to deal with us
14 unless they can trust us. You know, I kind of wonder
15 on the other hand can I trust them? That is one
16 feeling I get, you know. Maybe I am just being
17 oversensitive but when we talk about this issue of
18 rent controls like I don't buy the point that fair
19 rental -- the reason there has been very little
20 building in this province since '76 is entirely
21 because of rent controls. Those of us who have been
22 here since '76 know darn well there have been high
23 interest rates, and an economy that mitigated
24 against ...

25 MR. FITZPATRICK: I think that is the



1 whole issue, the economy.

2 MR. GORDON: The construction
3 industry was interested to get into commercial,
4 investing their money in the States and there is a
5 slew of reasons they didn't get involved in
6 development here in Canada, so I don't think we should
7 give this Committee or the public the idea you didn't
8 build because you didn't trust us. You had a lot of
9 other motives out there besides that and furthermore
10 you don't have any intention of building anything
11 except very high end rental units in the future.
12 You are not interested in the middle and you want
13 to leave it to government to build it all and you
14 want the tenants to pay more money so that you people
15 aren't going to have to worry about your MURB's.

16 MR. FITZPATRICK: What is the
17 middle range? You tell me what the middle range is,
18 tell me what I can build, the cheapest type of
19 commodity for someone to live in, \$50,000 a unit?
20 \$50,000 a unit is not a high class unit. If it costs
21 \$50,000 for a 200-unit it is \$10 million.

22 MR. GORDON: You are lucky in a sense
23 the Liberals came out and said they were going to
24 make 4 per cent the rent guideline across the province
25 because then as a result negotiations went on and now



1 you are going to save your skins because the tenants
2 are going to pay more and you are going to be
3 guaranteed at least an economic return on your
4 buildings.

5 MR. FITZPATRICK: What is the matter
6 with that?

7 MR. GORDON: You are saying to us,
8 "Listen, we won't ..."

9 MR. FITZPATRICK: What is the matter
10 with a return on equity?

11 MR. GORDON: Don't give us this
12 trust garbage.

13 MR. FITZPATRICK: Have you ever put
14 our money at risk? I know how much we built in '78 and
15 '79 when the need was there. I know. When I put
16 up a 400 unit apartment building for \$20 million
17 not under rent controls, interest rates are going
18 up at 20 per cent, I don't make any money. The
19 only way I am going to make money is on the long-term
20 in that and that long-term is tied in with the rates
21 I can get.

22 Now if the rates that I can get
23 do not increase to match inflation or above that,
24 I am never going to earn a return and that is all
25 I am saying. I built it under an environment that



1 said no rent controls. That is what we built. I
2 haven't been here long enough to know what went
3 on back ...

4 MR. GORDON: You got government grants.
5 You have got write-offs or got MURB's.

6 MR. FITZPATRICK: Do you know what a
7 MURB is? What is a MURB to put in my pocket?

8 MR. GORDON: You build, you must
9 have been getting a return?

10 MR. FITZPATRICK: I wanted a return.
11 That is why I said in here when we make the decision
12 we hope it is a good decision. I have no guarantees.
13 That is what all these people are saying here. We
14 will take the risk but you give us a fair chance
15 when taking that risk. Don't come around and stab
16 me in the back.

17 MR. GORDON: Change the rules of the
18 game.

19 MR. FITZPATRICK: That is the way it
20 goes.

21 THE CHAIRMAN: Thank you, Mr. Gordon.
22 Any other Members of the Committee? Mr. Reville.

23 MR. REVILLE: I don't think I will
24 take after him quite as hard as Mr. Gordon did.

25 MR. GORDON: Don't be out of character



1 Don't be shy.

2 MR. REVILLE: You can trust us.

3 MR. FITZPATRICK: I should say I
4 don't know who you are.

5 MR. BERNIER: He is an NDP member.

6 MR. REVILLE: We are the ones who
7 got the government to agree to the 4 per cent. I
8 don't know whether you should trust them.

9 MR. BERNIER: Now it is up to 5, 7.

10 MR. REVILLE: You make a lot about
11 this point of trust and I understand what you are
12 saying because what you are talking about I think
13 is investor confidence and anybody who is in business
14 needs to have confidence that the pursuit of that
15 business can be profitable but I wonder, you know,
16 because in fact the political pressure that you
17 are concerned about down the road is in fact what
18 has already happened and the purpose of the Fair
19 Rental Policy Organization was to put political
20 pressure on the government when it appeared they were
21 going to do a 4 per cent solution.

22 MR. FITZPATRICK: You have to play
23 the game.

24 MR. REVILLE: Absolutely and I don't
25 mind you playing the game and saying "Don't you guys



1 back down when inflation goes up" but do you think
2 these guys won't back down when inflation goes up?

3 MR. FITZPATRICK: I am not really
4 here to show my political bent.

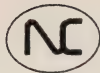
5 MR. REVILLE: I am not talking
6 about politics, sir. I am talking about your reading
7 of the future and your reading of what political
8 necessity may be.

9 MR. FITZPATRICK: That is why I am
10 suggesting it is going to take time regardless of
11 whether this Bill passes or not. What we have to
12 do is come up with a solution to supply. There are
13 people out there who need affordable housing.

14 MR. REVILLE: This Bill doesn't do
15 anything for them.

16 MR. FITZPATRICK: It is not going
17 to promote building overnight. What are you trying
18 to do? What are you people trying to do? What is
19 the problem with rent controls?

20 MR. REVILLE: Let me tell you what
21 the problem with rent control is. When it was brought
22 in by the Tories 11 years ago they only brought in
23 part of it in. You can't have price regulation unless
24 you have a price list. Right? The registry was
25 left out. That is where we have got one-third to one-



1 half of all landlords charging illegal rents, because
2 there is no price list that anybody can see.

3 MR. FITZPATRICK: What is the purpose
4 of rent control?

5 MR. REVILLE: The purpose of rent
6 control, sir, is to provide a methodology by which
7 rents can be increased and that is all it is. It
8 is not a social program.

9 MR. JACKSON: It is a universal
10 program by your definition.

11 MR. REVILLE: It is in fact universal
12 but it is not a social program. These whinings about
13 people in a unit might only have to pay 10 per cent
14 of their earnings have got zip to do with it.
15 Everybody in FRPOO whines about it. Here is some
16 doctor in there with a waterbed and a mirror on the
17 ceiling and he is paying 6 per cent of his income
18 for his rent and isn't that an outrage, you know?
19 I don't know what he is doing with his stethoscope --
20 I don't want to know. Just don't let him put one
21 on you or he will charge you an administration fee.
22 You know, all that rent control does is say you can raise
23 your rent by what is in the Bill. It doesn't create
24 any housing for poor people.

25 Until the government believes that



1 housing is a right we are not going to see any
2 housing for poor people and the government doesn't
3 believe it. It says it but it doesn't believe it.

4 MR. EPP: That is not true.

5 MR. REVILLE: The only thing you guys
6 can do, you can build very well. If you build at
7 market rent you have a very small customer base, is
8 that correct?

9 MR. FITZPATRICK: That is correct and
10 as I indicated to this gentleman over here, you tell
11 me what is the cheapest I can build. I have got to
12 build and charge \$500 and \$600 in order to make a
13 break even point. That is the fact of life. I can't
14 go and build a unit and rent it for \$150. I cannot
15 build it. You just can't build them.

16 MR. REVILLE: Would you be surprised
17 to know that I would support a shelter allowance
18 program only if rent controls stayed on?

19 MR. FITZPATRICK: I am suggesting
20 it is a companion situation. That if rent -- that
21 is really my whole supposition -- rent controls are
22 here.

23 MR. REVILLE: They are.

24 MR. FITZPATRICK: They are not going
25 to go away. You guys aren't going to throw them away



1 and you guys aren't.

2 MR. REVILLE: There is a Tory down
3 there and a Liberal ...

4 MR. FITZPATRICK: The table is
5 tipping this way so there must be a coalition over
6 there.

7 MR. BERNIER: Look to the right.

8 MR. FITZPATRICK: That is what I am
9 saying. If you go on the supposition that rent
10 controls are here let's do something given that.
11 That is what I am saying.

12 MR. REVILLE: This Bill, the real
13 problem is that too many people who need housing
14 don't have enough money to get it.

15 MR. FITZPATRICK: That is right.

16 MR. REVILLE: You can't solve the
17 problem. You can put up the buildings.

18 MR. REVILLE: That is right.

19 MR. FITZPATRICK: That is right and
20 we want to.

21 MR. REVILLE: Society has to do some-
22 thing so people can afford to live in them.

23 MR. FITZPATRICK: The landlords
24 are now subsidizing. Like I have no problem and
25 I think society has to accept responsibility.



1 MR. REVILLE: Okay. So what do you
2 suggest? You see, until that affordable stock is
3 available you already are renting to people who can't
4 afford the rent and if you get the rate of return
5 that you want they will be even less able to afford
6 the rent and they have got nowhere to go.

7 MR. FITZPATRICK: That is right.
8 That is the problem you guys have got.

9 MR. REVILLE: You got it too.

10 MR. FITZPATRICK: No.

11 MR. JACKSON: They got the market.
12 They own the existing units.

13 MR. REVILLE: What they have been
14 telling us, Cam, is they do have this problem. They
15 are not getting the rate of return they think they
16 should get on their rental stock.

17 MR. FITZPATRICK: The problem is
18 we have got it, we have got the building. You have
19 two choices. Either you walk away from it or you
20 keep it and if you keep it what we are saying is
21 as I indicated right off the bat if we had a choice
22 we wouldn't want rent controls because it is a
23 control. Who likes to have controls?

24 MR. REVILLE: I understand that.

25 MR. FITZPATRICK: But since it is



1 there put it in a form that will work. In order for
2 it to work you have got to get that investor confidence
3 and he has got to get a return. Rent control,
4 Mr. Cook, we have been through hearings and everything
5 else and we justify what our increases are. That
6 is what the rent review process is all about.

7 MR. REVILLE: The rent review process
8 for the proposed 75 buildings is even better than
9 you have been used to.

10 MR. FITZPATRICK: Right, but there
11 is a reason for that. When you go and make a
12 decision and you invest millions and millions of
13 dollars under that basis, that there are no controls.
14 When we came in in one of our largest buildings, the
15 largest in the City of Windsor with 400 units the
16 rental market was very tough and interest rates
17 were very, very high and we had to get people in
18 there at rents below what we should be getting. We
19 were losing money from day one. All right? So you
20 get them in there to generate some cash flow. Some
21 cash flow is better than none.

22 MR. REVILLE: You don't want to get
23 stuck in that rent forever, do you?

24 MR. FITZPATRICK: That is the problem.
25 The last couple of years ...



1 MR. REVILLE: This Bill allows you
2 to escape from that problem.

3 MR. FITZPATRICK: If I get economic
4 relief, but it doesn't say what you do with the
5 ten per cent.

6 MR. REVILLE: Would life have been
7 easier in 1975 if you had told any building in the
8 future was going to be rent controlled instead of
9 finding that out in 1985?

10 MR. FITZPATRICK: I was very young
11 in 1975.

12 MR. REVILLE: We were all young in
13 1975.

14 MR. FITZPATRICK: I really wasn't
15 involved in these discussions at the time but
16 people were faced with the same thing. You make an
17 investment and are you going to be able to make the
18 return? Things don't change. They are always the
19 same.

20 MR. REVILLE: I should go round and
21 round in circles with you, but the earlier suggestion
22 that somehow the landlord should look at somebody's
23 T-4 slip is an extremely offensive suggestion. It
24 is not the landlord's business.

25 MR. FITZPATRICK: I don't know how



1 the subsidized housing do it but I am sure they have
2 methods whereby they have to verify, that the tenant
3 has to verify what their incomes are so there are
4 methods around.

5 MR. REVILLE: It is not the landlord
6 that checks that out.

7 MR. FITZPATRICK: The landlord is the
8 Windsor Housing Authority. They are the landlord
9 and if you want to get into the subsidized housing
10 you have to show it somehow. If one person is able
11 to get that information ...

12 MR. JACKSON: That is what we are
13 doing, that is the point. We are already doing it.

14 MR. REVILLE: Mr. Docherty has this
15 fantasy about how to solve that problem. How can
16 you listen when your mouth is flapping like that?

17 MR. JACKSON: You taught me the
18 technique.

19 THE CHAIRMAN: Mr. Reville, have you
20 anything further?

21 MR. REVILLE: No, we are just going
22 to argue.

23 THE CHAIRMAN: Mr. Fitzpatrick,
24 thank you very much for appearing before the Committee.
25 You obviously stimulated a lot of conversation among



1 the Committee members.

2 Is Mr. Schincariol here now?

3 Then that is the last presentation. Of all the hearings
4 we have had I think the presentations here in
5 Windsor were the most punchy and very, very effective.
6 We were very, very impressed with the quality of
7 presentations we have heard. Thank you very much.

8 The Committee is adjourned.

9
10 ---Adjournment at 5:05 p.m.

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17 S. Shambleau, C.V.R.
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STANDING COMMITTEE ON RESOURCES DEVELOPMENT
RESIDENTIAL RENT REGULATION ACT
TUESDAY, SEPTEMBER 30, 1986
Afternoon Sitting



STANDING COMMITTEE ON RESOURCES DEVELOPMENT

CHAIRMAN: Laughren, F. (Nickel Belt NDP)

VICE-CHAIRMAN: Ramsay, D. (Timiskaming NDP)

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Pierce, F. J. (Rainy River PC)

Reville, D. (Riverdale NDP)

Smith, E. J. (London South L)

Stevenson, K. R. (Durham-York PC)

Taylor, J. A. (Prince Edward-Lennox PC)

Substitutions:

Caplan, E. (Oriole L) for Mr. Knight

Jackson, C. (Burlington South PC) for Mr. Stevenson

McKessock, R. (Grey L) for Mr. Epp

Also taking part:

Curling, Hon. A., Minister of Housing (Scarborough North L)

Gordon, J. K. (Sudbury PC)

Clerk: Decker, T.

Staff:

Richmond, J. M., Research Officer, Legislative Research Service

Witnesses:

From the Ministry of Housing:

Peters, F. H., Executive Director, Rent Review Division

Stratford, L. A., Senior Solicitor, Rent Review Division

Laverty, P., Director, Rent Review Policy Branch

Individual Presentation:

Rossby, S.

From Lesbury Co. Ltd.:

Burton, R. M., Property Manager

Individual Presentations:

Kernerman, R. M.

Medcof, J. C.

Lawrence, B.

From GLG Development Ltd.:

Antinori, L., Property Manager

Individual Presentation:

Emery, J. H.

From the Law Union of Ontario:

Gemmell, J., Lawyer; with Martin, Gemmell

Reinhardt, P., Lawyer

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON RESOURCES DEVELOPMENT

Tuesday, September 30, 1986

The committee met at 1:16 p.m. in room 228.

RESIDENTIAL RENT REGULATION ACT
(continued)

Consideration of Bill 51, An Act to provide for the Regulation of Rents charged for Rental Units in Residential Complexes.

The Acting Chairman (Mr. Reville): Last week we visited Thunder Bay, Kingston, Ottawa, London and Windsor. We returned to find that Bill 51 has been reprinted to show amendments proposed by the Minister of Housing (Mr. Curling). The amendments are those sections between the arrows. That will make it easier to work on the bill. The clerk has a small supply of bills, which we will make available to those who are interested.

Also, this afternoon you will have received about two inches of documents from the Ministry of Housing, which are in response to requests that have been made during the course of the hearings to date. I assume that next week will be the time to ask any questions that may arise from the material that is before you now.

I will call the first deputant, Stanley Rossby. I apologize for the delay, sir.

Mr. Rossby: This will not affect my allotted time?

The Acting Chairman: No.

STANLEY ROSSBY

Mr. Rossby: Let me introduce myself. My name is Stanley Rossby. I am 75. I have my master's degree in philosophy from the University of Warsaw. Since 1954, I have been, initially, the proud and, later on, the not so proud owner of a small apartment building in Toronto. To be specific, it has 18 suites.

I survived the follies of the two great tyrants of our time, Hitler and Stalin. I was under the jurisdiction of the first for a few months and under the second for a few years. I have developed a sensitivity to discrimination. I know it when I see it. As a landlord, I have a chip on my shoulder, but I am not a sourpuss. I have a keen eye and an open mind and I am basically optimistic, not about rent controls, but about life generally.

I am sure, ladies and gentlemen, that you have heard words of praise for Mr. Curling many times on this floor for his initiative in bringing together landlords and tenants in the Rent Review Advisory Committee. I would like to join that chorus, but it is not because the Minister of Housing exercised his prerogative and his duty to help the parties in an economic dispute. What is of special importance in this case is the attempt to break the spell of a political taboo which has plagued this province for more than 10 years.

The taboo to negotiate with "rent gougers" is the legacy of Stephen Lewis, the unrestrained political agitator, who had his hey-day in 1975 when he cornered all political parties into passing rent control legislation. Cursing his enemies, inciting hatred against the target of discriminatory actions is as old as mankind. It is a particularly favourite political tool in the socialist camps. In the Soviet Union, any potential opponent of the regime is branded a kulak without regard to linguistics or semantics. I may explain that kulak actually means a medium-sized land owner, but it became a generic pejorative political term in the Soviet Union.

Our legal system is generally quite accommodating in matters concerning two consenting adults. This is certainly a general rule in civil law, but not so in the case of landlords and tenants, who are not allowed to enter into any contractual relationship deviating from the letter of rent control legislation. The argument that landlords have the power to intimidate tenants is false and insulting to both sides. Tenants have security of tenure and are intelligent enough not to be afraid of landlords.

However, good medieval Christians would not speak to witches; good Nazis would not negotiate with Jews; and loyal Bolsheviks would not reason with kulaks. Those were all considered dangerous, diabolical creatures who could hurt the innocents if they came in contact with them.

In Quebec, landlords and tenants are free to negotiate rents--

The Acting Chairman: Excuse me, sir. Do you see the light in front of you on the microphone? Could you lean a bit forward?

Mr. Rossby: I am sorry.

The Acting Chairman: The gentleman from Hansard is having a little difficulty in hearing you.

Mr. Rossby: I was not aware of this.

The Acting Chairman: We are going to turn off that infernal device over in the corner as well.

Mr. Rossby: May I continue?

The Acting Chairman: Yes, please continue.

Mr. Rossby: In Quebec, landlords and tenants are free to negotiate rents with the usual consumer safeguards of withdrawing from the deal within a few days. The breakthrough with the advisory committee will become meaningful only if it will lead to a situation in Ontario where individual landlords and tenants are free to negotiate with each other.

Let us go back for a moment to those critical days in 1975. In a speech delivered to the Mississauga Real Estate Board on June 5, 1986, Larry Grossman, the leader of the official opposition, described the rental situation in Metro Toronto in 1975 as follows: "The vacancy rate reached 1.5 per cent and rent increases were averaging about 12 per cent by October 1975. Almost four per cent of tenants in Metro Toronto were experiencing rent increases in excess of 30 per cent."

These figures give us some insight into the true story. Even in the overheated rental market of 1975, with a vacancy rate of 1.5 per cent, the

average rent increases did not exceed 12 per cent, which is equivalent to the average increases in rents granted by the Residential Tenancy Commission under existing rent control legislation in the subsequent years. The hardship inflicted on fewer than four per cent of Metro Toronto tenants by rent increases in excess of 30 per cent from any vantage point of good government did not justify province-wide rent control legislation, which aggravated the shortage of rental accommodation and caused great hardship to more than four per cent of the tenants.

It is safe to assume that the mentioned excesses did not at the time occur province-wide. It is also clear that, if left to the natural course of events without government intervention, the market would have corrected itself within a year or so by stimulating increased building activity. This proved to be the case in other unregulated rental markets such as plant, commercial and office space.

In the aforementioned presentation, Mr. Grossman admits that the crisis is largely of "our own making", meaning that politicians of all three political parties in Ontario caused the crisis. However, after this rhetorical breast-beating exercise, when it comes to ways of solving the problem, Mr. Grossman finds refuge in the old doubletalk about increased supply which would make rent controls unnecessary. Thus, the vicious circle comes full cycle. Builders do not build because of rent controls; rent controls cannot be abolished because builders do not build.

Mr. Grossman maintains that the politicians are trapped. Politicians know the disease and know the cure. They are not trapped, but if they feel trapped it is because of political opportunism and lack of courage.

When Mr. Curling took office, he declared in an interview with the press that rent controls would be phased out starting the following year, i.e., 1986, but man of integrity and political innocent that he was, he was soon brought in line by his senior colleagues. The sacred cow of Ontario politics should be left unmolested even if it tramps the fields, eats the crops and spreads misery.

The political situation in Ontario is perverted by the fact that the two major parties follow the dictates of the third smaller party, thus compromising their own philosophical stance. The cost pass-through principle froze the landlords' return at the 1975 level, thus cutting the very basis of private ownership of rental housing.

It is clear that the New Democratic Party, whose policies place it at the left end of the social democratic spectrum, aims unmistakably at liquidating private ownership of rental housing in Ontario. However, one can hardly expect the NDP to proclaim this openly when it lacks the courage to present itself to the electorate as a socialist party, hiding behind the poster of new democracy.

In 1975, when the Legislature debated the rent control legislation, I had a brief encounter with Stephen Lewis in the lobby of the Legislative Building. During a recess in the debate, Lewis, glowing in the glare of TV cameras, displayed his charms to media reporters while feeding them hate propaganda against rent gougers. The bell rang and the reporters receded. I introduced myself to Stephen Lewis as a small landlord and asked him why he indiscriminately spread hatred against a whole economic group. As a Jew, a member of a people who suffered greatly by hate and slander, was he not aware

how dangerous such hate propaganda can be? The artificial smile died on his face. He looked confused and obviously could not find an answer. Then he exclaimed, "I have a job to do," and ran into the Legislative Assembly.

After a few years, I made a presentation to the standing committee of the Legislature during the debate on the rent review legislation. I mentioned in my presentation about my pre-Second World War experience in Poland. During the recess, Dr. Dukušta, the then MPP for the NDP, approached me in the hall to exchange reminiscences from Poland. Regarding the legislation under debate, he made the revealing statement that what all this legislation was about was the class struggle between capitalists and the poor. No comment.

The attempts to politicize the rent control issue stripped it of any economic and social relevance. Study after study commissioned by government and private bodies furnished statistical proof that about 70 per cent of the beneficiaries of the legislation do not need the protection it offers. Within the remaining 30 per cent, the small percentage of really needy is not being helped by rent controls since they cannot afford the controlled rents. Only direct rent subsidies based on the economic needs of the recipient offer an honest and efficient approach to the problem. The real victims of the legislation are the thousands of young couples waiting for accommodation to be married, the many newcomers to the city in desperate search for apartments that just are not available, regardless of the rents they are prepared to pay, and the underprivileged.

Let me give some of my own experiences. For quite a few years, I have had in my apartment building six two-bedroom apartments and 12 one-bedroom apartments. Only one two-bedroom and one one-bedroom apartment are occupied by couples. The others are occupied by single women because of the very low rents.

For quite a few years, I did not have any vacancies of two-bedroom suites. By a quirk, two of these apartments became available this year in the months of July and September. Both tenants were moving because they bought homes. The rent was \$450 per month; the prevailing rent for similar accommodation in the area is \$700 plus. An advertisement in the Toronto Star set in motion a mad race of applicants. Since the telephone in the superintendent's suite did not stop ringing from the early morning, she took the receiver off the hook and let calls through for 15 minutes in many hourly intervals.

13:30

Needless to say, all the people who were granted interviews submitted applications. Many offered the superintendent key money over the telephone. One young lady enclosed a photo with her application. A junior executive presented an extensive curriculum vitae as in an application for a responsible job. A traffic controller suggested he would pay the rent for a year in advance. Another applicant promised he would only rarely be in the apartment, as if this would offer an advantage to the landlord. People showed desperation in making unusual bids.

The applicant to whom I rented the apartment had phoned asking me to give her my decision before 8 p.m. the same day. She was promised that they would keep a small, not too bright, one-bedroom apartment for her at a rent of \$600, \$150 more than my two-bedroom. Should I decide not to let my two-bedroom to her at \$450, she did not want to miss out on the other apartment. She is a teacher transferred to Toronto at a starting salary of \$42,000. The annual rent of \$5,400 constitutes less than 13 per cent of her salary.

When I was renting the second apartment, I ventured to check other advertisements in the Toronto Star. One next to mine offered a two-bedroom basement apartment at a rent of \$675. I telephoned to inquire about the address, and the apartment had already been rented. I felt angry. Someone was obviously picking my pocket, but it was not the tenants--after all, they were ready to pay what I asked for--it was the politicians. Why should I, with an income of less than \$42,000, subsidize the rent of someone with such an income?

When Frank Miller, without any prior research, reduced the ceiling of rent increases to four per cent on the eve of the 1985 election, not only did he pick the pockets of thousands of small landlords, but also he violated legislation on the limits of election spending by trying to benefit from handouts to tenants of millions of dollars which were neither his nor were donated to him.

Bill 51 in its proposed version follows the general philosophy of previous legislation, but it offers some small, insignificant progress. Small landlords, owners of pre-1975 buildings, are subject to most discriminatory treatment. Only if rents are 20 per cent below the average, and averages are low as it is, can a landlord receive an additional annual increase of two per cent.

To illustrate the extent of this outrageous injustice, let us try for a moment to reverse the situation. If a landlord increased rent by 20 per cent above average, an outcry of indignation against rent gougers and exploiters would follow. Of course, the rents would be proclaimed illegal. But to let a tenant benefit from a 20 per cent lower rate is in full agreement with the principle of double justice. One cannot repress memories from the past when under German occupation it was illegal for Jews and other persecuted groups to possess radios, jewellery, etc., but the good law-abiding burghers of the Third Reich could legally acquire these goods for a small fraction of their value.

The choice is clear for the politicians. Either we return to a system of justice for all, without discrimination against selected pariah groups, or we undermine the foundations of democracy in our province. Either we let builders from the private sector supply us with adequate housing at a fair return on investment or we look forward to the cherished vision of low rents in socialist countries, with their infested slums, mind-boggling shortages, key money, etc.

I brought along a page of Time magazine of September 1, 1986, and I will read a short excerpt from it:

"Earlier this year, Boris Yeltsin, the Gorbachev-appointed party boss for Moscow, surprised a meeting of propagandists with a blistering denunciation of the past administration of the city. Yeltsin described Moscow's well-known but seldom mentioned urban woes in painful detail. A million Muscovites still live in communal apartments where they share cooking and toilet facilities with other families."

Some of you ladies and gentlemen may have seen or read about a film produced by a Polish film producer referring to the well-known shortage in Poland, where hundreds of thousands of young people cannot get married, because the accommodation situation is hopeless. A young couple who loved each other and wanted to make love did not have enough money for a hotel room--maybe hotel rooms would not accommodate them--went under a truck and

made love. In the morning the truck moved, leaving the two lovers in a pathetically embarrassing situation.

The writing is on the wall. You can lull yourselves into false hopes that the problem will somehow go away. It will not. Those, particularly on the left, who believe that coercion, police action and punitive legislation will solve the problem are running away from reality. Since antiquity, suppressing economic activity has caused black markets to flourish, and neither the praetorian guard in Rome nor the NKVD in Russia can remedy the situation. In the Soviet Union, the black market flourishes in every field of human endeavour and has become a way of life despite draconian laws, even the death penalty, for major economic offenders.

Ladies and gentlemen, you may triple the Ontario police force, increase tenfold the number of prosecutors, call up the army and build new jails, but you will not enforce unjust, discriminatory, economically lunatic legislation. It will take strong characters to operate rental housing under such conditions. That is why those who abided by the punitive laws and never underwent the hassle of the rent review process, such as me, are leaving the field and selling out, even if the sale represents a partial expropriation without compensation.

For the remaining few minutes, I would like to touch on whether the situation is altogether hopeless. I do not believe that the parties here will muster the courage to make any meaningful changes in rent review legislation, even on a phased-out basis. What remains is a judicial solution.

It is my strong feeling that rent controls the way they are in Ontario contravene the Charter of Rights. Section 1 of the Constitution Act says, "The Canadian Charter of Rights and Freedoms guarantees the rights and freedoms set out in it subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society." I do not think you can really convince any impartial court of law that this is the public interest, to the point where 70 per cent of the beneficiaries of rent legislation, which takes away money from other citizens who are supposed to have the same rights, is justified by public interest. It just does not make sense.

The Acting Chairman: Thank you, Mr. Rossby. An interesting and sweeping geopolitical analysis. Any questions?

13:40

Mr. Taylor: I gather you are not in favour of the legislation or of any legislation that would control rents.

Mr. Rossby: No, but I am realistic. I am not advocating abolishing rent controls right now. I am pretty sure the market proved itself. Unbelievable things happened in the past four or five years in the United States and Canada where free market forces prevailed. Nevertheless, I appreciate that shelter is a basic necessity. If I had my way, I would not advocate abolishing rent controls overnight but would phase them out in the way of allowing two consenting adults, to use the well-known legal phrase, to negotiate a deal. Why is rent control legislation so sacrosanct that two adults cannot negotiate it? After all, there are no basic principles of human rights or basic morality involved. This is a political ploy that is hanging in thin air. This is wrong thinking.

Second, as in the case I described to you about the lady who was ready and glad to pay \$600 for a dark one-bedroom apartment, why should I not be allowed to negotiate a rent of \$500 with her? I would not dare try to increase it by more than \$50. I stuck to the letter of the law and that is why I am on my way out.

Mr. Taylor: You advocate a restoration of the right to contract freely between landlord and tenant.

Mr. Rossby: Free contract, maybe with some guidelines, when there is a change of occupancy. I would not mind if there were some guidelines because maybe some landlords are 30 per cent behind with their rents and maybe it would be too drastic to catch up with the 30 per cent in one shot, but there should be some leeway. Gentlemen, you are not helping tenants. I know this is supposedly the intention. Actually, what you are doing is trying to advocate your own political interests. Let us be blunt about it.

I lived in the Soviet Union for six years and I saw how the political process worked. The only difference between our system and theirs is that I can come here and speak my mind; I could not do it in the Soviet Union. You or your leaders will decide, regardless of the economic, legal and moral considerations. If you add on top of that this mixture of polarization and hatred, which is being generated very deliberately by people who know--it was the same thing with the doctors.

We have a better medical corps than we deserve and the figures bear it out. Show me another profession or trade where people can charge as much as they want and only six per cent deviate from the guidelines. This was the case with the medical profession. Mr. Rae proudly took the credit. I leave the credit to him. What he did inflicted lasting damage on the health care system in Ontario.

I made a presentation before the standing committee on social development. I was never extra billed. At my age you realize the price of doctors and topnotch specialists from many fields. Lately, I have been seeing some doctors and I mentioned to them that I was sympathetic to their cause and that I made a presentation. I felt I had touched a raw nerve. This is supposedly a dead issue, but it is not. A doctor's goodwill can save lives. We have good doctors. They will do their duty. However, a doctor sometimes goes beyond duty. He has to sacrifice personally and doctors do it. They have not only been deprived of the right to extra bill, which was actually economically a nonissue, but they have also been villified in a very mean, contorted manner.

Mr. Taylor: Bringing the matter back to rent control, do you have any suggestions other than the freedom of contract to escape the--

Mr. Rossby: I would say on leaving, if an apartment becomes vacant--

Mr. Taylor: Decontrol it?

Mr. Rossby: --the parties should be allowed to contract. Believe me, you will do the sensible thing, because this thing is being practised anyway. I am too old to practise it. Let me be frank about it. I have no legal or moral scruples, because I feel a law that is immoral and a law that is discriminatory is for me not a law. It may be a law on the books. A law such as that is being broken and will be broken, and you will not enforce it.

The Acting Chairman: The next deputation is Ricky Burton.

RICHARD M. BURTON

Mr. Burton: My name is Ricky Burton or Richard Burton and I am a small landlord. My father started a business in 1939. It is people such as myself and my father who are the builders of Canada. Most apartment units are owned by the smaller landlords and not by major corporations, and this province needs us desperately.

I am also a member of the board of directors of the Fair Rental Policy Organization; however, my submission is not made on its behalf. I am a member of the board of directors of Landlord Self-Help Centre, but I am not making my presentation on their behalf either. However, I would like to make you aware of that so you can realize I know where landlording is at. I am a small landlord. I know the business inside out and I am a muddy-boots sort of landlord. I do everything from the top down.

Others have spoken to you here, and I do not think they are who they say they are, particularly the Federation of Metro Tenants' Associations, which says it is a spokesman for many tenants. It gives numbers into the thousands. The Federation of Metro Tenants' Associations is run by a communist. I realize the Communist Party is not illegal in Canada. However, the communists have always wanted a world without landlords. They do not want the private sector in the business.

The vice-president of the federation, Norman Brudy, has referred to landlords as a bleeding brotherhood of landlords. I urge you to take whatever the federation says with a grain of salt or even less than that. That is enough about them.

A lot has been said about inflation, and tenants are rather fearful that the new guideline, however it is calculated in the new formula, will be over the annual rate of inflation. Have you ever wondered why, when the rate of inflation was 10 and 12 per cent, the guideline was still at six per cent? Get this--this is a very important figure. In July 1975, the consumer price index was 59. In July 1986--that is 11 years' difference--it is 132.9. That is an increase of 125 per cent. The cumulative increase in the guideline is only 86 per cent. Tenants are far ahead.

Most important--and this has always been the way since rent review started and it will continue to be the way under Bill 51--the act is based on a cost pass-through principle; that is, landlords may increase rents only by as much as their costs have actually increased. They do not get any more. They do not get anything to offset the impact of inflation. Their profit level has been frozen for 11 years. Just be sure that is clear. Landlords cannot raise rents to offset the impact of inflation.

If a landlord had \$1,000 profit in 1975, theoretically he is making only \$1,000 in 1986, but in inflated dollars that \$1,000 will buy less than \$500 worth of goods and services. No one's income has been frozen in terms of absolute dollars. Everyone gets some increase for inflation. Landlords are people too. Landlords have families, they have kids and they have to buy groceries. It is discriminatory, it is mean and it is unfair.

Kay Gardner was here some time ago, Kay Gardner and her greedy, landlord-gouging tenants and others like them. Some of them may--and I

emphasize the word "may"--have an affordability problem. What they have done is determine what they think they ought to pay and demand that landlords charge no more than that. Why should landlords be forced to be the sole subsidizers of tenants? Why should not barbers, accountants, machinists, delivery men and, for that matter, politicians pitch in to assist indigent tenants? Certainly, there are tenants with affordability problems, but landlords have been singled out to be the only sector in the economy to aid all tenants, not just indigent tenants but wealthy tenants as well.

Why do these tenants not go march on Loblaws and demand that Loblaws sell \$8-sirloin steaks for \$3? If some tenants really have affordability problems--and there are some--then they should be subsidized in a civilized country, but only those who need help and only to the extent that they need help. One of my more honest tenants--I imagine all my tenants are honest--quite truthfully told me that he can take his family to Europe solely because he lives in a rent-controlled building. This man makes a high income.

This is the same Gardner and her bullying tenants who forced Metro Toronto to pay for the apartments on Eglinton and Bathurst \$2 million more than they were worth.

With regard to the new maintenance standards, I understand the government is setting up a maintenance place with uniforms. I guess the uniforms will also have jackboots but still will not work. The landlord does not have the money. Even if there is some grant money and some interest-free loan money, buildings are going to deteriorate. If a landlord has very little equity in it, he is crazy if he does not abandon it. If I had such a building, I would mortgage it to the hilt, milk it for a while and just would not come any more one day.

I would also like to mention something that disturbs me. David Warner, a New Democratic Party member, was rather disturbed about comments one rent review officer made to tenants. Whether what the rent review officer said was right or wrong does not matter. I think the cornerstone of our judicial system is that the legislative function and the judicial function should be independent of one another.

The politicians do not tell the lawmakers or the quasi law deciders, such as rent review commissioners, what to do. I am now fearful that if rent review officers do not give decisions which please the greatest number of people, they will somehow feel influenced and feel they may be fired unless they do that. I think David Warner has done something terrible and should be brought to task for it.

I find that Bill 51 has created two classes of landlords, those with buildings built before 1976 and those with buildings built after 1975. The buildings built after 1975 have a guaranteed rate of return. Landlords can increase rents to be assured of that rate of return. I suggest that is unfair and discriminatory. Landlords who have suffered for 11 years will still suffer. The worst thing it is going to do is scare away landlords. They will be afraid that this preferential treatment will be taken away soon. It is certainly going to discourage anyone from building.

My friend before me talked about a Charter of Rights and Freedoms attack, that rent controls may offend the charter. You should know, and you should think about this when you are forming the law, that I and several other landlords have already retained counsel and have a very extensive opinion,

which has cost us more than \$10,000, that rent control violates the Charter of Rights and Freedoms. As soon as this bill is passed, we will take this government to court, only it will be in a proper forum. We will not be in a forum such as this where politicians are pandering to the greatest number of voters, the tenants.

We believe that section 15 of the charter has been offended in that a class has been discriminated against. Section 15 states that there shall be no discrimination, for the obvious and the right reasons, of race, colour, creed, or any other group.

There was a recent case in Newfoundland where the Newfoundland and Labrador Housing Corp. tenants took the Newfoundland government to court because of different treatment. The Newfoundland housing tenants did not get all the benefits that other tenants got. The judge decided--there are two decisions like this in Newfoundland now--that there was discrimination. There can be discrimination of tenants against tenants. It does not necessarily have to be race, colour or creed. Those to be singled out were found to be the only sector of the economy to be controlled.

If residential landlords have been the only sector to be controlled why are commercial tenants not controlled? I shop on Yonge Street north of Eglinton for my groceries. Poor Mrs. Wong's rent has gone up three times. Mrs. Wong depends on that little grocery store to feed her family. Why does she not have the benefit of rent control? That is discrimination.

Mr. Taylor: Do not give the chairman any new ideas.

Mr. Burton: Landlords of pre-1976 buildings are even more controlled. Why? There is no good reason under the charter. I assure you, gentlemen, think about this when you are making the law. You will be in for a good charter attack. We will put in the bucks, and it is my prediction that at least the pre-1976 landlords will get the same as the post-1975 landlords and that rent control may very well go right out of the window.

To talk about some good things, Bill 51 is better than Bill 78. I commend the advisory committee, but when we landlords went there it was almost like a chicken negotiating with Colonel Sanders. What else could we do? Another analogy is that it is like negotiating with the hangman as to how many loops we are going to put on the noose.

The very important question is, will Bill 51 encourage building? A good expression is maybe. I think it is a very small maybe. I think there is a great fear that newly built buildings will be severely controlled in the future; that is, that special 10 per cent will be taken away.

You, as lawmakers, will have to assure this industry that there is some hope, there is some light in Bill 51; in the way it is presented now there is a wee bit of light at the end of the tunnel. Maybe the pre-1976 landlords will also get that return, but there are so many broken promises from politicians.

These are a few of them. Rent review was to be temporary in 1975; now it is permanent. For the \$750-luxury apartments, there was some hope. It was going to get up to \$750 some day; so that is gone. Post-1975, if I build an apartment today and dump in a lot of money, that is gone under the financing restraint act. If you sold a building before, the new owner could pass through at least his financing costs. That is permanent now. That is gone. You cannot sell any more. Values of properties are very depressed.

If you are little older, like my friend before me, and you want to move to sunny Florida, you are probably locked into your building. You cannot sell it, or you have to sell it at a very depressed amount. The guideline used to be eight per cent, then six per cent and now it is four per cent. Who knows what you guys will do with that formula? You cannot renovate under rent control any more. That is gone too; so you do not improve your property.

I can tell you what my attitude towards a building is now. I do not spend a nickel where I do not have to. Where the carpets are dirty I have to have the attitude that I am not going to get any more rent if I shampoo those carpets; so I save the \$200. That is a bad attitude. I do not weed the dandelions. Why? Why should I go to Canadian Tire and spend \$20 on weed killer when I do not get any more rent?

14:00

I think you politicians should be scared. What if you really had to tell the truth to the electorate? Who is going to build all the apartments? Where is the money going to come from?

Mr. Curling, you have stated that you hope 40,000 units will be built by 1990. They will not be; perhaps 10 per cent will be. At \$65,000--this is what it costs to build a new unit today--that will cost \$2.2 billion. It will not happen. It is well known that the federal government is not giving money any more. You have to answer for that to your constituents.

You talk about vacancy rates being low now; they will be so cruel in 10 years that you had better love your mother-in-law. You will have to live with her; there will not be any place else.

I have become convinced by 11 years of rent control--and I have been to three of these hearings--that politicians do not really care what is right or wrong, fair or unfair, good or bad. The only thing you really care about is your own political wellbeing. If that is true, I have wasted my time and everyone has wasted his time coming here.

We feel you will make laws that pander to the greatest number of voters, and this country is in a lot of trouble. You cannot do that; you have to make a rent control law that will encourage building and encourage landlords to have pride in their buildings. If the government keeps tightening the noose, it will have nothing. The situation will be worse than in New York City or France.

These things are well known. Economists such as Larry Smith and Michael Walker from the Fraser Institute and Patterson, who I believe spoke to you in Ottawa, have convinced you, but you seem to toss good economic argument aside. You seem to love doing it. When Kay Gardner comes here with a busload of older tenants--and they are voters--you say: "Great. Now listen to the voters."

That is my submission.

Mr. Bernier: I have one short question. Mr. Burton, the committee has been around the province for the past several weeks hearing presentations rather similar to yours.

I guess the point that really bothers me as a member of the committee is to hear you condemn the bill. You are against rent control; it is against the

Charter of Rights; there is nothing good in the bill. There is nothing in the bill that you like. On the other hand, you say: "There is light at the end of the tunnel. There is some hope for landlords. Maybe we should do it." Then you come right back again and condemn all the politicians for moving in this direction.

I am getting confused. Are you in support of the bill or are you against the bill and want to abolish it? Which way are you coming from?

Mr. Burton: I am against rent controls in their entirety. It has been proven that they do not work. They do not work in Ontario. What has happened in the past 11 years since they have been tightened? The situation has got worse. What has happened in any other jurisdiction that has had rent controls? The situation has got worse.

I am against rent control, but I have to be realistic. I guess there is a downside to democracy; politicians must pander to the greatest number of voters. I accept that. There are some good things in Bill 51. I will not say "good things"; it is better than Bill 78. A 10 per cent return to post-1975 buildings is a beginning. I think the pre-1976 buildings should get it as well. Costs no longer borne not applying to capital costs is a good thing. It is some encouragement to the landlord to put money into capital improvements in his building.

Mr. Bernier: You know what the politicians will say. "He is against rent controls, but he can live with Bill 51."

Mr. Burton: I do not have a choice. I think I will have to live with Bill 51.

Bill 51 is certainly not good for me. It is not good for landlords, but do not make it worse. Do not take out anything that is slightly positive. Do not say: "We have to tighten the registry. There are all sorts of cheating landlords out there. Let us get them." If you do, there will be lots of landlords abandoning their buildings.

If you take some little guy who perhaps has been cheating, maybe he put a fridge and a stove in the tenant's apartment; he and his tenants sit around over a cup of coffee or a beer and they make a deal. Take that away from him and the guy is crazy if he does not remortgage his building, get as much mortgage money in there as he can and run away. Then we will have the government running a great deal of rental accomodation.

I have seen the operating statements of government-run, Ontario-run and municipality-run accomodation. They are operating at twice the private sector rates. You guys need the private sector. You need it so desperately. Yet if you keep tightening the noose, you are not going to have a private sector in this industry.

You guys mark my words. I remember telling you this five years ago. You remember Richard Burton here today. Look at my face. There is a left side and there is a right side. Do not forget me, what I am telling you today. Mark my words.

Mr. Bernier: One further question. Coming from Kenora, which is next to the Manitoba border, I find rent control is really not a problem in my area. As we move around rural Ontario, we are hearing time and time again that

this is not a problem for London, Sarnia or Thunder Bay. It is a Toronto problem we are forcing on the rest of the province. Do you have a comment to make on that?

Mr. Burton: Sure I do. Until very recently I owned a building in Sault Ste. Marie. For the Fair Rental Policy Organization of Ontario, when we travel and speak to landlords in the smaller centres--and I have been to Sault Ste. Marie, Orillia and Kingston--we find the vacancy rate in these centres also is next to nil. Sure, it is a very big problem.

It might even be a larger problem in those centres because I think many apartments there are not apartments, but merely rental in someone's home. That is the back room, the upstairs, the downstairs. I know my mother-in-law is a landlord and she rents a basement. There was even a deal with the tenant below that there was babysitting in exchange for rent.

If that landlord has too much hassle, that landlord will just leave. You cannot even count how many landlords will be losing, losing--

Interjection: What?

Mr. Burton: No one knows how many rental units will be lost that way. My poor mother-in-law, who rents one unit, is going to have to register. She will not register. She will say, "I am not renting that basement out any more." Thousands and thousands of units.

Mr. Bernier: Would regional controls work in the balance of Ontario, in those areas that have a problem?

Mr. Burton: The whole province has a problem.

Mr. Bernier: We have not been hearing that.

Mr. Jackson: What do you mean by the whole province?

Mr. Burton: In every jurisdiction FRPOO has been, we find that the vacancy rate is--perhaps some of them have one per cent. Perhaps some of them even have two per cent, but it is tight across the province.

You do not have to be a brilliant economist. You do not even have to be a very bright person. Just drive around the province. You do not see anybody building up apartments. Do you know how I do my vacancy surveys? I take the Toronto Star and open it up and I only see 1-1/2 columns of apartments available for rent.

I remember doing that seven or eight years ago and I saw two or three pages. Do not forget, I do not rent any apartments out. I very rarely put an ad in the paper. I rent most of my apartments by putting a sign on the lawn and I usually get five or six applications for every apartment.

Mr. Jackson: And they can see it through the weeds.

The Acting Chairman: Mr. Jackson, anything more?

Mr. Jackson: No, I have questions.

The Acting Chairman: That is what I thought you were asking. Carry on.

Mr. Jackson: Mr. Burton, you made reference to this loaded gun to your head with respect to this legislation, and we have heard this sort of theme coming through. Essentially, it goes something like this: a minority government situation; potential for quick election; every landlord lives in mortal fear that the next election will be run on rent controls and he can get hurt a lot worse. Do you agree with that scenario still?

Mr. Burton: I guess. Certainly, with the history of rent controls, anything the slightest bit good--and I went down the list--has been taken away. I am not a builder-landlord, I am not a developer-landlord, I guess like Bramalea. Those guys have to be fearful of that. If they are getting 10 per cent now, as a rent spread from the pre to the post, there is going to be growing pressure to take that away.

Mr. Jackson: Just so I understand, you are talking about the agreement the Rent Review Advisory Committee developed, or are you talking about the last 10 years that the former government was a little too tough on landlords and a little too lenient on tenants?

Mr. Burton: During the past 10 years, I think any builder or any landlord had to be fearful that anything beneficial here could be taken away by this government or by another government. I guess in the government we have now it is the NDP that is the tail that is wagging the whole dog or wagging the whole economy.

14:10

Mr. Jackson: I have heard that same thesis advanced one step further, which is that after the next election we can go in and clean up some of the areas and protect these pre-1976 landowners because this bill clearly does virtually nothing for them. Do you concur with that?

Mr. Burton: No. I think once it is passed it will be many years until legislation is changed. Some of the guidelines or regulations may change, but it is a pretty big deal to change legislation.

Whenever there is a legislative change, hearings like this see the tenants, who can certainly exert more visible power, or the power that politicians like to hear, that is, the greatest number of voters. That is my own fear of the law. I am fearful of Kay Gardner and her busloads of tenants.

Mr. Jackson: So you really have no opinion as to whether or not this bill will stabilize the situation over the next few years.

Mr. Burton: No. I think it will get worse. The next change will be worse. Where regulations are tightened, they will get worse; where guidelines are tightened, they will get worse. Every single change since the beginning has been a tightening of the noose.

Mr. Jackson: A final question. I have asked this when I have been on public hearings around the province and, with only one or two very rare exceptions, I have received the same response. Do you feel there should be some form of program involving shelter allowance in concert with regional decontrols tied to vacancy rates, and that we consult with municipalities in this regard?

That is a very broadly defined program, but do you feel this committee should be moving in that direction, or do you feel we should be pursuing Bill 51?

Mr. Burton: I think that is the only reasonable option, although I could not see having any regional decontrols. There is still too much pressure from what I call the greedy landlord-gouging tenants.

Mr. Jackson: I did not ask you to speculate upon how we would do it, I merely asked if you feel we should be moving in that direction as a policy or if we should be continuing on this road for entrenchment. I am listening to your phrases, your imagery--

Mr. Burton: Yes. I am prepared to answer you. The only form that will really work is a subsidy--I did not mention this in my brief--but only to those tenants in need and only in the amount they really need. Wealthy tenants--I have a husband and wife team of doctors who are probably making pretty close to \$200,000--love rent control.

Why are they being subsidized? Why do I have to subsidize them? All taxpayers subsidize them because there will not be any more building; the government is going to have to do the building. You are going to have to go after home owners and throughout the whole economy get this money to build the housing that landlords will not build.

A subsidy, a shelter allowance only to those tenants in need and only to the extent of their need, is the only realistic answer. That is the only way you can get this industry back on its feet.

Ontario is very fortunate. We have probably got the best housing, or we had; until recently, it was the very best.

Mr. Jackson: Thank you. That is all.

Hon. Mr. Curling: Mr. Burton, you do not seem to put much confidence in government because you say that, although the laws may be established, as soon as they get a chance, they will just change it to win the vote.

Would I read you correctly to say that you have no confidence in government making laws?

Mr. Jackson: No, in changing laws.

Hon. Mr. Curling: In changing laws.

Mr. Burton: No, sir. I have to be honest, I am very disappointed with government and I have had pretty good cause over the past 11 years.

Hon. Mr. Curling: If I would say this and say that, yes, we have heard that many people are very sceptical and do not trust us about that.

It is actually placed in the act, because the government may change the guidelines if they feel likely to win votes, that it could be reviewed in three years. It was felt that would sort of bring confidence that it is in the hands of the landlords and tenants, who can make the recommendation to do that review. Are you aware that this was done and it makes provision for that in the act?

Mr. Burton: Personally, I do not see a great deal of difference between statute and regulation. I still see the same pressure from without and it does not make any difference at all to me.

The Acting Chairman: Thank you, sir. Is Brian Lawrence here? How about Robert Kernerman?

ROBERT M. KERNERMAN

Mr. Kernerman: Mr. Chairman, this is basically a submission on behalf of a mobile home park operator. I had the privilege of being here for most of the meetings over the past few weeks before the committee broke and left on its world tour; so some of my comments may be addressed to some of the submissions that other delegations made.

In the definition section of Bill 51, there is provision for including mobile home parks. Under the present rules, a mobile home park is included under rent controls.

A mobile home park is essentially the land owned by the owner and the services, which would include water, sanitary and storm sewers, utilities, snow cleaning and garbage removal.

The relationship between the mobile home park owner and the owners of the mobile homes is defined in the Landlord and Tenant Act and in Bill 51 is defined as a landlord and tenant relationship. Prior to that, there was some argument that it might be a licence or a licensee relationship, but it is now covered under the Landlord and Tenant Act.

We got into the mobile home park business in 1971 and our plan was to expand across Ontario. However, when rent controls came in in 1976, everything came to an abrupt halt because we had to concentrate on our budget to ensure that we had enough revenue from rents to cover all our operating costs and capital costs.

In effect, rent controls under the present law have prevented us from expanding into an area which needs expanding. The price of single-family homes in the Toronto area and in the area surrounding Toronto is rather excessive, and a mobile home or a modular home, which would be priced in the \$30,000-to-\$40,000 range, would be very stiff competition to the home builders who are building in the \$80,000-to-\$150,000 range.

The major part of our operation involves the obtaining and zoning of land, after which services are installed, models are purchased and brought into the park and those units are then sold.

It is my opinion that we should be exempt from the proposed Bill 51 because, to compete effectively with the traditional suburban home builder, the mobile home park has to be upgraded continuously. In other words, we have to install trees, ponds and other amenities to make the mobile home park very attractive to the potential home buyer so he does not purchase a home from a traditional builder, and in this province this type of builder fairly well covers the entire market.

This upgrading has to be done continuously. It is not a maintenance program where you are going to prevent the mobile home part from depreciating and you are going to maintain roads and water or sewer lines. You have to

upgrade so that you are competing with the buyer who has \$100,000 or \$120,000, can afford to buy a stickville home and is coming in and buying a modular home.

14:20

My submission is that if our rent at the present time were approximately \$30 or \$40 a month higher and if this amount were channelled into upgrading, the homes in our park, on average, would be worth approximately \$10,000 to \$20,000 more than they are now. It is clear that a \$360-a-year rent increase is really a very small premium to pay for such an increase in equity that the home owner would experience. Consequently, I suggest that the controls are contrary to the home owner's interest and that if the controls were removed, his equity in the home would increase dramatically.

Over the last several weeks, we have heard that there have been various abuses in the system. There was a delegation here from Sandycove Acres Home Owners' Association that made certain complaints. Our relationship with our tenants over the years has been very cordial. Over the years, we have allowed senior citizens certain concessions in their rents. This was prior to the implementation of rent controls in 1976. If the senior citizen did not have the funds to pay a rent increase, he did not pay it. Our increases prior to 1976 were approximately five per cent a year. Therefore, they were in line with the increases that the rent guidelines offered after 1976. We have not gone to rent review. We budgeted from the increases that were provided without going to rent review.

My suggestion is that it is the economics of supply and demand. If there were proper municipal zoning laws and if official plan policies allowed mobile home parks, any shortage would be alleviated and there would be enough mobile home projects or, for that matter, apartment projects that the tenant gouging we have experienced over the last several years would be at a minimum. There is nothing better than to have a proper law of supply and demand, so that many commodities are being offered in the marketplace and the buyer has many choices.

I also suggest that the artificial distinction between pre-1976 and post-1976 controls be removed and that a shelter allowance, which had been briefly discussed, might be implemented for tenants in the Toronto area, for example. I notice that there was an article in the Globe and Mail, which said that the standard of living of the people in the Parkdale area has fallen behind that of the rest of the city. Perhaps a temporary implementation of a shelter allowance might be of some benefit so that those people are not unduly burdened by increases they cannot afford to pay.

That is all I have to say.

Mr. Taylor: On a point of clarification: I am not clear about your situation. Do you rent the land? Is it a land lease, is it a lease of the home or is it a combination of both? The way you presented it, I thought the purchaser would actually buy the home that went on the land. Can you clarify that?

Mr. Kernerman: Yes, it is a land lease and they own their own homes.

Mr. Taylor: Really all you are leasing is land. You are not leasing accommodation.

Mr. Kernerman: No.

Mr. Taylor: Would the minister clarify how the leasing of land and not of accommodation fits into the legislation?

Hon. Mr. Curling: I will ask the staff to explain it. My understanding is that if the property, the mobile home, is being used for rental purposes, it falls under the rent regulation guidelines.

Ms. Stratford: Bill 51 does not differ from the Residential Tenancies Act in the sense that both acts apply to rental units, and rental units are defined as including sites for mobile homes; so these sites that could be rented by the deputant would be covered by rent review.

Mr. Taylor: Vacant lands, although improved, are the subject matter of this legislation as well. It seems strange to me. You are not controlling accommodation; you are controlling the site.

Mr. Cordiano: Is that covered under the Residential Tenancies Act?

Ms. Stratford: Yes. The Residential Tenancies Act has a similar definition, with the site itself being considered a rental unit on which would probably be located the mobile home, which would be living accommodation and would also accommodate--

Mr. Taylor: I can appreciate the accommodation, because you could make up on the sale of a home what you lose on the rental of the lot, where you have that combination. However, where you are simply renting a piece of land, if a person is free to buy his home and to put it on that parcel of land, it seems to me there is room for some improvement in that. I just make that observation. I do not agree that the legislation has clear discretion.

The Acting Chairman: Does the minister have further comment on the policy involved?

Hon. Mr. Curling: I do not have further comment. I do not know if staff does.

Mr. Taylor: Do you appreciate the distinction I am trying to make?

Hon. Mr. Curling: You are saying if the accommodation is owned and the land is rented, it should not have been--

Mr. Taylor: Yes. Otherwise, here you have the possibility of an enterprise which presumably is adding to and facilitating living accommodation by making the sites available, and people choose their own homes, they own their homes. I own my home. There was some suggestion that home owners should be charged rent on their own homes and that brought into taxation--remember that view of the tax law which, again, I do not fathom. It is that kind of thing that troubles me.

Ms. E. J. Smith: I would like to speak to that one point. I know two areas of that kind of home that I could address, one at Grand Bend, where they have had tremendous expansion and are all seniors. Like many places we have heard from outside of town, I think the supply and demand factor would come in and keep out any gouging.

In London, where we have very little land designated mobile home land--and I am not saying anything to the owner of that one place, but speaking generally--I assume there would be an opportunity for taking

advantage of a housing shortage and worsening the situation simply because you are in a low rental situation.

The Acting Chairman: Perhaps we could phrase that as a question to the deputy. Can you comment on that, sir?

Mr. Kernerman: I was not clear. Will you restate your question?

Ms. E. J. Smith: We heard earlier from Mr. Bernier that in London people came forward and said there was no problem in the smaller places. In fact, in London proper we have about the same vacancy rate as Toronto, although many of the outlying areas came in and said they did not have a problem. It seems to me that in areas where there is an acute housing shortage, you have the same possibility of abuse in mobile homes as in rental apartments, and not so in the country, where there is a lot of room. I was commenting that Grand Cove Estates keeps growing and growing in Grand Bend.

To me, there is no differentiation between mobile and ordinary homes in London, where there is a shortage of both for rent.

Mr. Kernerman: I think the best indicator is intense competition, just as there is in the food stores and all the other retail outlets.

14:30

Ms. E. J. Smith: Yes. That is a different argument.

Mr. Kernerman: I do not think it is so different. There are many different states in the United States--not necessarily the Sunbelt states, where there are a lot of retired people who cannot move out, where the home owners move out if their rents go up and they do not like the increases. In Ontario, of course, there are all sorts of regulations, and the mobile home parks have not grown as they should. Perhaps they have grown out in Alberta and Quebec more than they have here. If I were competing with somebody, which you are doing out in the marketplace, and he jumped his rents, I would lower mine and grab all his tenants.

Ms. E. J. Smith: To take the example another way then, in London, where there is only so much land designated for mobile homes, suppose it is all built on. I am not sure of that, but as far as I know that is true. If that mobile home park owner decided there was a such a shortage of rentable land around that he could quadruple the rent of his land to the mobile home owners, they would have to pay because they would have no place to go. I do not even know who he is, so I am not saying he would or anything. Because I happen to come from London, I take London as an example.

Mr. Kernerman: My submission is that there is something wrong with the official plan policies in London.

Ms. E. J. Smith: That may be, but I am saying the situation exists in a crowded community.

Mr. Kernerman: The other point is that all tenants should be on long-term leases, just like retail tenants, whether they are in the Eaton's Centre or anywhere. They should not be on month-to-month or year-to-year leases. They would be on five-year and 10-year leases and there would not be any abuse.

Mr. Taylor: This brings rent control to the summer cottagers in my area.

Ms. E. J. Smith: People live in them permanently.

Mr. Taylor: I am talking about summer cottages. We call them seasonals, where people rent a lot year-round. Then they bring in their own home, a mobile home, a modular home or whatever you call it, and that is their summer cottage. What this legislation is doing then is putting rent control on summer cottages. I do not know whether that is the intention or not, but if it is not, I think it should be clarified. That is the only point I am raising.

Hon. Mr. Curling: May I put this question to you? What protection would be given the tenants of the land--mark you, they own the houses but they are tenants anyhow--that the rent of the land would not escalate faster?

Mr. Kernerman: It would be the same protection as in the retail market. You would have to have long-term leases with options. That is what is done in shopping centres here. It is the same situation. A store such as A & P can have a lease of 40 years with options at certain rates. Again, it is a matter of negotiation. I feel it is a matter that it all goes back to supply and demand. If there were enough mobile home parks and apartment buildings, this would not be a problem. People could say, "I do not like the place" and leave.

Hon. Mr. Curling: To follow through on that, are these mobile homes so temporary, so mobile?

Mr. Kernerman: They are mobile. They are modular. They are built in various areas around London, but they can also be moved. It takes about a day, perhaps a day and a half, to do it. Actually, you can move any home, but these probably lend themselves more. Some of them do not have foundations. They are just placed on blocks, so they can be moved quicker. You probably have a day or a day and a half to do it.

Hon. Mr. Curling: The point I was getting at is, even with a day and a half, what type of cost will it be? I know you are going to say it depends on the distance.

Mr. Kernerman: The cost?

Hon. Mr. Curling: Yes, to move a mobile home.

Mr. Kernerman: A modular home?

Hon. Mr. Curling: Yes. Do you say the cost would be quite substantial?

Mr. Kernerman: It would probably be about \$1,000, but that could be worked into the lease. There could be a uniform lease that would apply to the situation, which I suppose the province would approve, so that everybody would be protected. There are certain protections you can build into a lease. There is a landlord and tenant.

Hon. Mr. Curling: There is more to consider once a tenant of the land makes a decision to move than the costs of moving, to get land that is reasonable too and a good contract so there is some sort of protection, which should be there.

Mr. Kernerman: Yes.

Mr. Taylor: Look what they are trying to do. They call a mover and move your furniture.

The Acting Chairman: Excuse me, please. We are not debating the bill at this point. We are trying to elicit some information from the witness and perhaps from the minister and the ministry staff.

Mr. Taylor: Perhaps I can ask a question.

The Acting Chairman: Why do you not ask a question?

Mr. Taylor: I am not trying to be facetious or argumentative.

The Acting Chairman: Good.

Mr. Taylor: I am simply trying to elicit the true intent, meaning and purpose of this legislation. The witness has made an excellent point. Will you try to compare the costs? It has been put to you that the cost of moving should be factored into the rental picture. Have you any comparisons in terms of moving from a standard apartment or a single-family home in terms of moving costs compared with moving costs from a park such as was indicated? Is there much distinction?

Mr. Kernerman: I moved last year from Windsor to Toronto and my bill was about \$2,000. To answer your question, if you are moving a mobile or modular home a long distance, I think you have to pay \$1 a mile to one of these towing companies.

Mr. Taylor: Presumably, you do not have to pack everything.

Mr. Kernerman: That is right. Everything that would be packed would be staying home.

The Acting Chairman: Your crystal might take a bit of a beating on the bumps.

Mr. Taylor: Are your parks assessed for business tax?

Mr. Kernerman: No. We collect the taxes for the individual homes because we are responsible for them. I made a submission about 10 years ago to a tax committee that was formed by the government at the time, but the government did not adopt any of the recommendations of the tax committee. I cannot remember all the details, but we are still responsible for each tenant paying his tax. They can levy against our land. They do not levy against the home. The municipalities do not want to get into a situation where they have to go around individually and collect everybody's taxes. They want one entity responsible for it; so we collect the property taxes and remit them. That is included in our gross rent.

The Acting Chairman: Thank you. Is Brian Lawrence here? No? Lucia and Giacomo Antinori. Do you think they have gone home?

Ms. E. J. Smith: It is early.

The Acting Chairman: Is Mr. Medcof here? If you do not mind proceeding early, we will be happy to use the time.

JOHN C. MEDCOF

Mr. Medcof: I believe that the material I presented to the clerk should be before you. It is exhibit 127.

The Acting Chairman: That material will be made available to the committee shortly, if you would like to begin.

Mr. Medcof: I propose to make some submissions regarding possible amendments that this committee might consider.

My position is that I am appearing on my own behalf. I have been a landlord and a tenant and have had some experience with real estate. At one time I was director of legal aid for Toronto, so I have had a bit of experience in delivering social programs. I had the advantage of attending the Thom commission during phase 2 of its hearings.

14:40

I am sure this committee has heard the same arguments over and over again. You have heard from landlords who say they are not making any money and they cannot afford to stay in business. That is probably correct. You have also heard from a lot of tenants who say they cannot afford rents, that the prices are rising and they simply do not have the money to pay them. That is quite true as well.

If you look at the latest figures that I have looked at, the average income is around \$22,000. According to the Canada Mortgage and Housing Corp., a person with that level of income can afford to pay about \$550 a month in rent. New units will cost around \$60,000 or up, depending on which builder you are talking to. If you translate that into the actual coverage of costs, you are looking at a cost of a new unit of around \$750 a month. The average income earner can afford \$550 a month; so the cost of new housing for people will simply be beyond his reach.

We have been hearing that developers have gone out of business. The last major developer I heard of was Bramalea. It was the last big developer. Mr. Goring testified in one of his appearances that they had about 1,100 units all set and ready to go when the revised rent control schedules came in. The government offered a substantial subsidy for each unit, and Bramalea said, "No, we are not going to proceed with it."

From my own experience in one small building that I have, a triplex, the average cost of a unit is around \$150,000. The costs in 1985 were around \$1,200 per month--that is, cash out--and the rent was around \$875 per month. That is a typical story. The only thing that is untypical is that one of the tenants was Trevor Eyton's daughter. I am interested to know that subsidies are being paid.

The other point that I would make is that we need some legislation that will retain the existing units. What is happening is that people who own properties are getting out of the business.

There are two factors. One is that the purpose of this legislation is to encourage builders to put up new units and, at the same time, I assume that part of the reasoning behind some of the legislation is to encourage people who still have units to hang on to them and to continue to rent them out rather than just selling and getting out of the business.

At the same time, steps have to be taken to protect tenants and provide them with affordable housing and perhaps provide new money for the private sector which is going to come in and provide housing for the people of this province.

We might as well face the fact that right now there are about 1.2 million rental units in Ontario. About three million people in the province are living in rental accommodation. If all the private developers and everybody got out of business, at \$60,000 per unit, you would be looking at an investment of maybe \$70 billion or \$80 billion. Our government simply cannot come up with the money to provide that type of accommodation.

With those general comments in mind, we have to face the fact that rent control has to be continued. It is politically impossible to do away with it. There should be perhaps some amendments in the act, and these are some of the things that I have mentioned in the list of suggested amendments.

I would like to refer to some of the evidence that came out before the Thom commission. Having sat in on it and reviewed some of the evidence, I may have a bit of an advantage over the committee. The Thom report has not appeared as yet, and we do not know for sure what is going to be in it.

One of the most interesting witnesses there was Roger Starr, the former housing commissioner of New York City. He explained the situation in New York where rent controls started in 1943. There are approximately 1.2 million units under rent control in New York City. The number of abandoned buildings has been steadily increasing as rent controls have taken effect.

In the years between 1965 and 1968, that is, about 25 years after rent controls came in, about 100,000 units were abandoned or boarded up by owners of predominantly rent-controlled units. As a building becomes older and the need for major capital replacements, in addition to normal maintenance, develops, the owner's decision relative to such investment is dependent on whether he can obtain the necessary flow of rent income to liquidate his expenditures. With the imposition of rent controls, owners curtailed the level and quality of services and in 1985 illegal demolitions were occurring.

There are two other important trends. The first was the widespread withdrawal of the professional real estate industry from ownership and management. Speculators or inexperienced investors buy these properties with a small cash payment and assume frequently burdensome mortgage indebtedness. The owners hold the buildings for whatever they yield until they fall apart, and then the owners disappear, which is what the one of the previous witnesses was suggesting. The inexperienced investors generally have neither the resources nor the experience to cope with the management of such buildings.

Financial institutions have been steadily ridding themselves of their investments in controlled buildings, either by selling their mortgages at major discounts or refusing to renew mortgages. This has a chain of disastrous effects. It has wiped out equity investors, third mortgagees and second mortgagees. In many of these cases, banks have found themselves the reluctant owners of buildings. At present many banks have simply written off their investments rather than take over management of controlled buildings.

If this sounds somewhat familiar, it is similar to what is happening with the units in the Cadillac-Fairview big flip here. Although in this case Cadillac-Fairview thought it was unloading the buildings on some unnamed

Arabs, it turned out to be unloading them on the Canada Deposit Insurance Corp., which is now trying to peddle them. They did not realize that was what was happening but it was.

Mr. Starr also told us there is a very definite pattern when a building is abandoned. If the rents received are not enough to cover the cost of maintenance, the operator, which is usually a limited company, first does not pay the taxes. He then collects as much rent as he can, then stops making the mortgage payments and then does not pay the utility bills. At this point, the tenants move out, and squatters, street people and drug addicts move in. They use some of the rooms in the building for toilets and, when the weather turns cold, build fires in some of the rooms for heat. The metal is stripped from the building. They take all the metal and pipes and sell it off for scrap, and eventually the building catches fire.

Mr. Starr was asked, "How many of these abandoned buildings are there?" He said: "There are a lot. We do not know. There is no light that goes on at city hall when a building is abandoned." The only time anybody notifies city hall on a regular basis is when the buildings catch fire. He said, "If you really want to find out how many buildings are abandoned, you should check with the fire department."

There were other similar stories. There was a man by the name of Gressl, who testified that he bought a 69-suite building. He paid \$1.4 million for it in cash. He lost \$54,000 in his first year and \$62,000 in his second. When he went to rent review, he applied for a rental increase, but the cash was put up by a related company and he was not allowed to deduct his interest; therefore, he did not get his increase.

There was also a man by the name of Cookson, who said he owned a bungalow worth \$103,000. He was receiving revenue of \$5,700 a year. Out of that he paid taxes, repairs and insurance. He sold the property for \$103,000 and says he will not be buy any more rental units.

The Thom commission authorized a survey. There are somewhere between 100,000 and 200,000 landlords in the province. In 1976, key money was just not heard of; now it is common, and payments of \$1,000 to \$2,000 are quite common. This is a little ad I saw, an example of key money that I will be speaking about. The Thom investigators took a survey of 210 landlords.

One quarter of the landlords said they were going to sell or convert their buildings to condominiums or demolish them; 46 per cent of the landlords stated that the tenants would be quite agreeable to rental increases in excess of the guidelines; and, rather surprisingly, 17 per cent of the landlords said that they had increased rents to illegal amounts. They told this to the Thom commission investigator.

14:50

Another interesting person was Eph Diamond, the former president of Cadillac Fairview. He stated that at one time his company had around 16,000 rental units and was building around 1,500 to 2,000 units a year. During the 1950s and 1960s, it was quite possible to achieve a return on equity of 15 per cent to 16 per cent and it was a good business to be in. From 1960 on, land costs went up, interest rates went up, labour became unionized, the cost of building went up and by 1973 the return on equity was down to about six per

cent or seven per cent. Also, there was a doubling of real estate values in the Toronto area from 1972 to 1974.

The result was that Cadillac Fairview did not buy or build any new rental units after 1975; it kept on building only commercial units. They kept their 16,000 rental units. By 1981 they wanted to get out of the rental business altogether. They did, and that was the origin, the fundamental background of the big flip.

He also indicated that the rate of return on commercial properties was running from 15 per cent to 19 per cent, although some investors from Hong Kong and other politically sensitive areas, such as Germany, were investing in Toronto and receiving a zero rate of return. With that background I think it is interesting to notice that Ontario has changed. In the last 30 years or so, we have seen the development of large housing complexes which have thousands of people with one landlord. Cadillac is the classic example.

That concentration of ownership is what first gave rise to the development industry. That, in turn, gave rise to the tenant movement. The pressure the tenants applied has resulted in rent controls. I seriously question whether the development of these high-rise empires, whether they are government or privately owned, is really conducive to a democratic or egalitarian society. There is such a tremendous concentration.

I think if most people had the opportunity they would prefer to own their own homes, whether it is single family, high rise or multiple, and governments encourage home ownership. Principal residences are exempt from capital gains tax; people who live in their own homes are not taxed on the deemed rent, the property they live in, as Mr. Taylor referred to; taxes on residences are lower than they are on industry and, of course, governments subsidize transit and other services, which really have the effect of encouraging private home owners to live in their own accommodations.

In the review of evidence at the Thom commission, we heard of about 13 different programs. There was the assisted home ownership program, multiple-unit residential buildings, registered home ownership plans and the home ownership made easy program. They all seemed to go by the alphabet like alphabet soup. There were 13 of them. Now we have Renterprise--there are three new ones.

Hon. Mr. Curling: There is no acronym for Renterprise, is there?

Mr. Medcof: That is right. There are no acronyms there, but it will come. I am sure the ministry can think of something. We have tried all of these methods by which governments have been spraying money at the problem to encourage home ownership. I think AHOP was probably on the right track. It got into trouble because there were five-year mortgages at seven per cent or eight per cent. In the early 1980s, interest rates went shooting up. The mortgages expired and the person who had bought the property suddenly found he was paying far more for the home he owned than if he just rented a unit somewhere else. At one time, Central Mortgage and Housing Corp. had about 4,000 or 5,000 of these units come back on its hands, mainly in Peel and Mississauga. It is only in the last year or so that they have got rid of them.

I am inclined to think that we should have rent supplements for people who need them. If the government wants to put money into housing, probably the most effective method of doing so would be to make mortgage loans available to

people who want to buy their own homes. If you want to put them out at a lower than market rate, fine, but put it out at a long term. I realize you are talking about a lot of money, but you will probably get all the money back eventually and it would encourage home ownership. When a person owns his own home, he is prepared to pay the maintenance himself. A tenant is not going to make major repairs because he does not expect to live there and it is not his place. As a previous landlord said, the landlord will make repairs only if he has to because he cannot get enough of his money back.

My suggestion is that if the government is looking at something over and above a shelter allowance, perhaps it should be looking at long-term mortgages which, in effect, use the credit of the province to assist people to buy their own homes. I really cannot see anything wrong with that. It is something that should be encouraged and developed. There are programs now for farmers; I believe it is eight per cent under certain circumstances.

I would strongly recommend that as a long-term solution, because in Toronto we now have about 63 or 64 per cent of the population who are tenants and I think a lot of those people would like to buy a condo, a high-rise, a co-op or a townhouse. Perhaps the government might like to consider something like that. Something of that nature would be more effective than these programs that seem to come and go with each election.

In summary, rent controls should be retained. They have a bad effect on the overall healthy housing economy, but there are three million living in rental accommodation and 100,000 to 200,000 landlords. As Mr. Starr said, when you get that proportion of tenants, it is politically impossible not to have rent controls. Thorncliffe Park is the classic example. There are about 20,000 tenants and about 12 landlords. Any politician has to go along with the tenant position.

Something should be done about key money and something should be done about allowing landlords and tenants to agree on their rentals. We heard evidence from British Columbia and particularly Quebec. In Quebec, the landlord and tenant can simply agree on the rent. If the tenant disputes the landlord's claim for rent, he can go to rent review, but if there is no objection, the rent prevails. I do not see why you should have all the cost and bureaucracy if both the landlord and tenant agree. Those would be the general remarks I would make.

I have made some amendments the committee might wish to consider. I see that since I prepared this draft, the suggested amendment to subsection 97(2) has been adopted in part in that subsection 97(2) has been amended to provide that "No tenant or any person acting on behalf of the tenant shall, directly or indirectly," do the things that are set out. You have a copy of this ad in your material, I think. There are a lot of these ads. This one says that a reward is offered for a unit. I phoned this man. He acts as a sort of agent. He contacts a tenant who wants to sublet his apartment and he then goes around and finds a prospective tenant. He presumably pays the \$1,000 to the existing tenant, charges the incoming tenant whatever the traffic will bear and pockets the difference.

First, as a political decision, are you trying to catch that? If so, does the amendment to subsection 97(2) do it? You have amended it, as originally suggested, that "No tenant or person acting on behalf of a tenant..." That has been covered, but do you want to go on and add to it "or on his own behalf"?

If you were going to prosecute this person--I was a crown attorney for 10 years--he is not a landlord, he is not acting on behalf of the landlord, he is not a tenant and is not acting on behalf of the tenant. I would have some doubts that you could catch this with this section. If from a political point of view you want to catch the individual agent, you might consider making that additional amendment.

Mr. Taylor: Now we will have this fellow with his presentation.

Mr. Medcof: It could be. He may have--

Mr. Pierce: He is a free enterpriser.

Mr. Medcof: He is free enterprise. There are still a few vestiges of it, or so I understand.

Mr. Pierce: I thought they had most of the free enterprisers tied down.

15:00

Mr. Medcof: You might wish to consider whether clause 88(1)(a) has provided for the chronically depressed. I think this chronically depressed section is perhaps the key section to this bill. It is going to be very difficult to spell out when rent is 20 per cent below the gross potential rent for residential complexes. I do not know what that means. I think it is very difficult to provide. It is going to be difficult even to find out what a landlord's equity is. What is equity? Is it the price that was originally paid for the property? Is it the assessed market value? Is it the difference between the price paid and the mortgages on it? You are going to have to come up with some answers. I do not think clause 88(1)(a) is really workable and clause 88(1)(b) is going to have to be clarified.

The other suggestion I make is that perhaps--again, this would be a political decision--this committee should think about whether to allow a landlord and tenant to contract out of this act, to come to their own rents and only involve the government if there is a dispute. This will not work for the high-rise, because if there are 200 or 300 people in an apartment, somebody is always going to dispute; but for the smaller units it might take quite a substantial load off the backs of the Residential Tenancy Commission.

I also suggest you might choose to exempt single-family houses. One thing that came out in the testimony of people who had single-family houses is that they can get out very easily. You simply sell. That removes the property from the rental market, because if the landlord himself is not going to move in, he sells to a new owner and the new owner moves in. The control is not really effective there.

I understand in some jurisdictions rent control applies only to buildings of four or five units. In New York it is five or six and in some other jurisdictions rent control does not cover a small number of units.

The final suggestion is--and this was mentioned by some of the members earlier, and I agree with Mr. Bernier--this is primarily a Toronto problem. Someone said if this is a Toronto problem, Toronto solutions are being imposed on the whole province. According to the legislation, somebody who rents a log cabin in Timiskaming is covered by rent control, just like someone who has a

high-rise in Toronto. I would suggest that this committee might wish to consider whether the act should be amended to provide that it shall apply to any municipality where the council passes a resolution to that effect, and leave it to the local areas to determine whether or not the act should apply.

Those are the suggestions I have. If there are any questions I will try to answer them.

Ms. E. J. Smith: It has been a very interesting and well-informed presentation. The one I had a particular problem with was your discussion of an agreed-upon rent, because I see the whole rent registry approach as attaching the value of the rent to the unit and having nothing to do with the person. It is rather like in the Planning Act. It is the land that gets the designated use rather than the owner.

I can sit here and think of wonderful ways to take advantage of that situation. I have seven kids. I might move them into seven apartments. They could pay me a big rent for one month and then move on out to seven more. Then I would have an agreed-upon rent where several existed, because it attached to the person and not to the apartment building. I see that as very open to abuse, and also abuse of pressuring a person under the present shortage. If you get someone who is older and can afford to pay more than a fair rent, you pressure him, and in the circumstances he pays more so he does not have to move. You then actually have an unfair situation.

Mr. Medcof: The answer is that now if you put up a new building, the rent is whatever the market rent is. As you say, if you want to control all the rents and keep the rent on a particular unit from going up, yes, then you are quite right. But the rent registry, as I understand it, was really designed, the real purpose behind it was, to assist tenants who were disputing a rent increase, wanted to know what the previous rents were and could not find out. That was the fundamental, underlying purpose in the registry.

Ms. E. J. Smith: That gets it placed on market, but then once it is on market, it also becomes the method of increasing rents with inflation and so on, because they are automatically computerized and they go up by the appropriate amount and so on.

Mr. Medcof: That is right.

Ms. E. J. Smith: Whereas if you start attaching that proper rent to a fluctuating agreement between two people, it could radically imbalance that situation, it would seem to me.

Mr. Medcof: Yes. What this would provide is a sort of escape hatch that would take a substantial load off the Residential Tenancy Commission. This is the system in effect in Quebec, and the same points you raise are raised by the representative of Quebec tenants. Generally speaking, the feeling was that the system seemed to work there. Of course, it has the obvious feature that as it is now you impose rent review and rent review applications on people who do not really do not want them. Tenants in some cases would have no objection to a rent increase. Why should they have to go through the system? Your point is well taken.

The Acting Chairman: Thank you, Mr. Medcof. It was a very interesting presentation.

I believe Brian Lawrence has arrived.

Mr. Jackson: How many thousands of units do you own?

Mr. Lawrence: None.

BRIAN LAWRENCE

Mr. Lawrence: I rented a bachelor apartment at 2681 Bloor Street West, and the rent for that apartment was \$350. I lived there for about a year and I found out that a two-bedroom apartment in the same building had become available. I asked the superintendent how much it was for the two-bedroom, and she said she was not sure but she thought it was about \$410. I could not believe it; I thought it would be a lot more. I phoned the owner, whose name was Lawrence Smithers, and he said I could rent the apartment for \$400.40. I was all ready to move in--

What is so funny?

Mr. Taylor: I know the story.

Mr. Lawrence: You know the story? Okay.

I got a key and looked at the apartment. I could not believe how nice it was: great location right by the Old Mill subway. Among the other apartments I had checked for a two-bedroom, I did not see one that was any good for under \$600. I got a phone call from Lawrence Smithers when I was about to move in, and he said I could not move in because rent control said the legal rent for that apartment was \$343. According to rent control, a little, puny bachelor apartment is worth more than a two-bedroom apartment in the same building.

I went to rent control about five or six times. I phoned a lot of people, and they said they could do nothing for me. I said, "Can I not write an agreement with Mr. Smithers that if we both agree on the price of \$400.40, I can move in?" They said, "Yes, you can do anything you want." What would happen is, in Mr. Smithers's words, that if I came back a year later and said I had paid \$50 or \$60 a month too much rent, he would want his money back. I could not get the apartment. I had a hearing with rent control. They dismissed what I asked for, and I still could not get the apartment.

15:10

He has signs up on the lawn saying, "Available for rent, two-bedroom apartment, \$400.40." Every day about 20 or 30 people come to look at the apartments and say they want an apartment. They say they will even pay the \$343 to Mr. Smithers and pay cash under the table for the rest. He will not do that, so every day hundreds of people are turned down for these apartments. There are two or three vacant. You will not get a better deal anywhere in Toronto because \$400 is a ripoff. They are worth a lot more than that, but according to rent control you have a bachelor apartment that is almost as big as a toilet and it is worth more than the two-bedroom, which does not make any sense.

I just came here to say that it is not logical and it makes no sense at all, but rent control will not even talk about it. They do not even seem to care. While I agree that rent control helps in some cases where a landlord is charging too high a rent for an apartment, I cannot see why the landlord and the tenant are not allowed to agree on a fair price for an apartment. Why would that not be allowed if both parties are happy? That is all I have to say.

The Acting Chairman: I guess most of us know the Lawrence Smithers story, one way or another.

Ms. E. J. Smith: I do not quite understand what is going on here. They leave the sign on the front lawn and then they entice people in and tell them they cannot rent.

The Acting Chairman: Ms. Smith, you know precisely what is going on.

Ms. E. J. Smith: I gather they get lots of offers to do it under the table and they refuse to take them.

Mr. Taylor: May I make a comment? I do not think Ms. Smith really understands. I think she is seriously seeking an answer. One of our colleagues in the House brought this to my attention because his daughter looked at one of the apartments and was anxious to rent it, was anxious to pay a fair rent that would be agreeable to the landlord, but it was not permissible under the legislation. That is precisely the point the previous person made with the recommendation that a tenant and a landlord should be able to exercise freedom of contract and contract out of the act if they are agreeable.

Ms. E. J. Smith: If what we were hearing was some suggestion that the key was worth \$2,000 or \$20,000 or the curtains were worth \$15,000 or something I could understand it, but it just did not--

Mr. Taylor: There is a message, which simply is: "Look, I have this apartment and all kinds of people want to rent it. They are prepared to rent it at the price I am satisfied to take, but the law will not permit me to do it." You have two unhappy persons; the landlord is unhappy and the tenant is unhappy.

The Acting Chairman: I am sorry; I thought you knew the story.

Ms. E. J. Smith: No, I did not. He is making a political statement. I understand.

Mr. Pierce: He has an apartment for rent and there are people waiting to take it--

The Acting Chairman: Yes, and he will not rent.

Ms. Caplan: Brian, how would you feel if you got into an auction over the renting of that apartment? Here was an apartment available and the rent was not just \$400. There were all these people who now were bidding in an auction. The rent would not be \$400. It might be significantly higher and you would end up in an auction type of situation for apartments. That is the other side of a landlord and tenant being able to contract out. You could well end up in a situation where you get into an auction for the highest bidder for an apartment. How would you feel about that?

Mr. Lawrence: It would depend on how much the price went up.

Ms. Caplan: It would mean that those who could afford to pay and bid the highest price would get the apartment. Do you think that is what is likely to happen?

Mr. Lawrence: No, I do not think so. Mr. Smithers agreed that if I could get it for \$400, he would give the apartment to me.

Ms. Caplan: Why to you instead of to those 20 people a day who are trying to see it?

Mr. Lawrence: He promised me the apartment because I am the one he initially agreed to give it to. They even gave me a key.

Ms. Caplan: I guess what I am asking is do you see the problem of being able to contract out? Perhaps that is the arrangement in this particular case, but we could end up with an option situation where there is a bidding war and it is not going based on what is a fair rent but based on who can afford to pay the most. Can you see that developing if you have that kind of situation?

Mr. Lawrence: No, not in this situation.

Ms. Caplan: I am not talking about the specific one.

Mr. Lawrence: I do not see that happening.

Ms. Caplan: What will prevent it?

Mr. Lawrence: I do not really know what will prevent it. I really have not--

Mr. Pierce: Supply and demand in the marketplace is going to prevent it.

Ms. Caplan: The point that my colleague Mr. Pierce is making is supply and demand. We have heard there is no supply and there is a lot of demand. Therefore, you will have auctions for those kinds of buildings if this is permitted, whereas given a rent registry by the establishment of a legal rent--

Mr. Lawrence: I understand.

Ms. Caplan: Do you see the problem?

Mr. Lawrence: Yes, but I understand the legal rent cannot go so high. My point is that I cannot see why the agreement cannot be made between the tenant and landlord. If the price goes too high, there will not be an agreement any more. Then I think rent control has a right to say it is too much. The only situation is that if the tenant and landlord agree, then I think the rent control should say, "Okay, they have agreed that the price is fair." A rent of \$400 for that apartment is definitely fair.

Ms. Caplan: You are saying it compares actually in the area to \$600?

Mr. Lawrence: Yes, most definitely.

Ms. Caplan: How would you feel if an auction took place after this agreement, if the law permitted that kind of contracting out, and somebody came along and offered more and ended up with the apartment?

Mr. Lawrence: I would not like it too much for me, but I would pay up to \$600 for that apartment. I would not pay more. Once it gets past a certain price, I think rent control has a right to say it is too much.

Mr. Jackson: Ms. Caplan's line of questioning to Brian was somewhat misleading in so far as she was suggesting that the solution to this dilemma--

The Acting Chairman: Mr. Jackson, why do you not ask the witness a question?

Mr. Jackson: --rests with the landlord and the tenant getting into some sort of bargaining arrangement similar to an auction. If you look at housing as a commodity instead of as a right, we have certain legislation in place in this province which governs commodities. If you want to buy a refrigerator from Eaton's, you cannot walk into Eatons and have them say, "We have only three left on the floor and we have five buyers." There are laws against selling those in any form of an auction. The law says if you have one, you should give it to them. We do have laws that protect commodities and prevent the kinds of speculative activities to which Ms. Caplan referred.

Almost all of our applicants who have come forward and who have talked about deregulating have admitted there is room for some regulation and some guideline. I do not know of anyone who is looking for a totally unfettered system. Brian has approached this not looking for an unfettered system, one that provides no protections or safeguards--

The Acting Chairman: Mr. Lawrence, will you nod at some point so we can turn this into a question?

Mr. Jackson: Mr. Chairman, I know you will continue to be tolerant of this--

The Acting Chairman: I am trying to be tolerant, Mr. Jackson. I am an extraordinarily tolerant human being.

Mr. Jackson: I thought you were doing very well today as a matter of fact.

I think it is unfair to ask a question about an example where this process degenerates into an auction. What we are talking about here simply is the fact that there can be, Ms. Caplan, provision in this bill for--

The Acting Chairman: Mr. Jackson, either address me or address the witness.

Mr. Jackson: Mr. Chairman, I am about to make a point, and Ms. Caplan may--

The Acting Chairman: This is not the time to make a point. This is the time to question the witness, and you are very clever at this. You can ask the witness a question and make a point. I know you can.

Mr. Jackson: Brian, do you feel you should have the same rights in obtaining rents as you do in buying any commodity, such as a car? If a car is advertised for sale for a certain price and it is a fair price, whether it is established by the free market or established by the government, you should then have the right to walk into that used car showroom and buy the car without having to worry about being told it is at a certain price but the law says you cannot buy it at that price?

Mr. Lawrence: Yes.

15:20

Mr. Jackson: You enjoy those rights in other aspects; yet you do not enjoy that right in seeking out shelter. If you want to improve your shelter situation or because of your financial circumstances feel the need to move to an accommodation at a lower rent, you feel you should have that right of access.

Mr. Lawrence: Definitely.

Mr. Jackson: You feel that the government should in some way ensure that there is an adequate supply of rental housing so that you at least have a range of choices.

Mr. Lawrence: Definitely.

Mr. Jackson: You feel that currently in this market you do not have that freedom of access to choices in the marketplace.

Mr. Lawrence: That is right.

Mr. Jackson: Mr. Chairman, would you like me to go on with more questions?

The Acting Chairman: Mr. Jackson, I want you to do whatever you think you should do.

Mr. Jackson: I appreciate your tolerance. Thank you, Brian.

The Acting Chairman: Thank you, Mr. Jackson.

Ms. Caplan: Can I have one last question?

The Acting Chairman: No.

Mr. Jackson: I have more.

The Acting Chairman: It appears I have Ms. Smith, Mr. Cordiano, Ms. Caplan and Mr. Jackson. Mr. Lawrence, you have stimulated the committee. Do not leave. In fact, if you want to leave, you can.

Mr. Lawrence: I have to leave in a couple of minutes.

The Acting Chairman: Will you make your questions as succinct as possible?

Ms. E. J. Smith: Now that you have lived with Mr. Jackson's Utopia for a couple of minutes, I would like to bring you to the present reality.

Mr. Lawrence: I think he made very good points.

Ms. E. J. Smith: He had a wonderful picture of what might be. However, back where we are, assuming there are landlords out there who are not making political statements and therefore are not trying to put together a very reasonable political statement that looks pure, but rather are trying to maximize the good of their investments--

Mr. Jackson: No politician has ever been pure.

Ms. E. J. Smith: I am talking about the landlords.

The Acting Chairman: Everybody is teasing everybody else today.

Ms. E. J. Smith: Most people selling commodities maximize their profits. You have said that in the situation you visualize they should not do this, that they should charge only a fair rent. Who is going to determine what is fair?

Mr. Pierce: Supply and demand.

Ms. E. J. Smith: We are living in the present when we do not have a supply-and-demand situation. We are talking about Toronto where we have a very luxurious apartment going for \$342, which is not the ordinary market. I am talking to this gentleman. Who should decide what is fair?

Mr. Lawrence: What Mr. Pierce said.

Ms. E. J. Smith: He would like more supply and demand. You had that utopian conversation.

The Acting Chairman: Ms. Smith, I think the witness answered your question.

Ms. E. J. Smith: Okay.

The Acting Chairman: Thank you very much. Mr. Cordiano.

Mr. Cordiano: Very briefly--

The Acting Chairman: That would be delightful.

Mr. Cordiano: I have two points. First, there is the section of the bill that might deal with a situation where the landlord is unable to charge what he deems to be a fair rent, which may be \$400 or more. Obviously, if the rent is chronically depressed, section 88 would apply and he would be able to increase his rent if that is his true purpose. That is one point I wanted to make. That is not a question.

The other thing is key money. That is what my colleague Ms. Caplan referred to as an auction. That is taking place right now and that is what is what this bill attempts to alleviate. It attempts to get around that.

Mr. Jackson: On a point of order, Mr. Chairman: This gentleman has stated clearly and unequivocally that he was allowed access. He was given a key. He had earned the right to get the apartment.

The Acting Chairman: I do not see that as a point of order, Mr. Jackson.

Mr. Jackson: It is a point of order. He is suggesting the tenant was involved in a lottery and he was not. The tenant has already established that.

Mr. Cordiano: I do not think it is your place to interpret--

The Acting Chairman: Mr. Cordiano, I am in the chair. Do not speak to Mr. Jackson.

Mr. Cordiano: He is very convincing today. Okay, I will not. I will refrain from doing that. On the other hand, I would appreciate it if he does not re-interpret--

The Acting Chairman: Mr. Cordiano, will you pass Mr. Jackson a note? Speak to the chair or the witness.

Mr. Cordiano: As I was saying, that situation now occurs. This bill attempts to remove that problem from the marketplace. I do not know whether you are familiar with the bill, but it is addressed in the bill. I just wanted to point that out to you.

The Acting Chairman: Mr. Jackson.

Mr. Jackson: I will pass. Thank you, Mr. Chairman.

The Acting Chairman: Well done.

Mr. Pierce: First, for the benefit of myself and the benefit of the witness, the witness has indicated he is quite prepared to go out and negotiate in the free market in securing accommodations, and this bill does allow that to happen.

The Acting Chairman: I think you are right.

Mr. Pierce: The witness should be aware of that and of the fact that the passing of this bill is not going to rectify his situation, regardless of what happens in section 88 or in any other section in the bill, because he cannot legally go out and negotiate a fair market price for any apartment unit in Ontario under the bill.

Mr. Lawrence: I agree.

The Acting Chairman: That is correct, although you should not trust me, because you know my views on these things.

Mr. Pierce: Yes, exactly.

The Acting Chairman: But as the chairman, I would be totally--

Mr. Pierce: There are tenants out there who are prepared to go out and negotiate with landlords so that they get a fair return on their investment and, at the same time, the tenant has an opportunity to secure the type of accommodations he requires, and this bill does not do that.

The Acting Chairman: Is that the policy of the Conservative Party?

Mr. Pierce: It is a comment that I think you should take under advisement.

The Acting Chairman: I will. The next time I am speaking to your leader I will mention it to him.

Mr. Taylor: Do not apologize.

The Acting Chairman: Do not appease the chairman either, please. Thank you, Mr. Lawrence. You have obviously stimulated the hell out of this committee. Drop in again tomorrow.

Mr. Lawrence: You need some stimulus.

Mr. Pierce: Good luck in your apartment hunting.

The Acting Chairman: Everybody calm down now. The next deputation is a joint deputation, Lucia and Giacomo Antinori.

LUCIA AND GIACOMO ANTINORI

Ms. L. Antinori: Mr. Chairman and honourable members of this committee, we would like to thank you for this opportunity to express our concerns regarding the present rental situation.

These past 10 years of rent control have greatly affected the course of my family's life. My father came to this country as a landed immigrant in 1949. He left behind Italy, a land suffering from political instability. His greatest dream was to come to Canada, a country in which you were free to achieve your highest potential and in which no group or profession faced the narrow mind of political discrimination. With a total of \$40 in his pocket and the skills of a carpenter-mason, he began to build his new life in a country he loves very much.

By 1957, with hard work and a spartan lifestyle, he had saved enough money to build a beautiful 11-plex in the Wilson-Avenue Road area, which we still own to this day. To illustrate what one person with ambition and love for his work can produce, my father and his father first of all designed the three-storey apartment building and then dug the foundations with pick and shovel. They did all the finished carpentry, including building the kitchen cupboards and all the window frames as well as landscaping a garden rich in evergreens.

Today this building can still be considered to be at the luxury level, and the greatest compliment of all comes in the form of many people we have noticed photographing it. I felt it was important to give you this bit of background so that you may see that what we have to say to you today is based on experience and on long-term commitment to this essential industry.

In the past few years, we have been reading and hearing many distorted views about landlords and their economic condition. We felt it was finally time that, as a small landlord, we explain to you what we are truly facing.

Our family started out as builders and developers of both houses and rental accommodations. Our last major project was 30 semi-detached homes in St. Catharines, which we still own on a rental basis. Today, because of rent control, our occupation is no longer that of creating and developing beautiful accommodations. Our company is now reduced to a janitorial company, which is occupied in maintaining our rental properties.

The three buildings we own in the Avenue Road-401 area are pre-1976 buildings. The majority of the rents are depressed. To give you an idea of one of our low rents, how would you like to have a large one-bedroom apartment on Avenue Road for \$292, or an even better deal, an extremely large two-bedroom apartment with a private, enclosed brick balcony for \$344? All master bedrooms in this building are 18 feet long. It sounds extremely attractive at first, but to understand the true story, you have to look beyond the bargain at us.

This is a family business, in which my parents, my brother and I fully dedicate ourselves to working to try to preserve what our parents have accomplished through their hard work. We maintain long hours, six days a week, with many an unaccounted hour. We do everything from cleaning the hallways, minor repairs to major repairs, landscaping, administration and rental. Rarely do we hire outside help and no longer can we afford the luxury of a janitor.

15:30

We love the business of providing housing. We are long-term owners, not in it for a quick profit but to make a mark in our community. We do not do this for a living because it is the only thing we can do. My mother is a teacher and my brother and I have university degrees. But we have the ambition to pursue the development of business.

From the day my parents set foot in this land, they have worked, never blaming others for their condition, never asking the government for any financial support, but always giving to this country in tax revenues. May I add they have yet to go to rent review for a much-needed rent increase.

What has all this belief in this province brought them? Nothing, because they are landlords, today the most oppressed and discriminated-against group in this province. For 10 years the government has made laws to protect people from high rent, but we can say at this point not much has been done to protect us from unfairly depressed rents.

Innovative buildings, pleasant places to live and admire do not just happen. They are the creation of one person or a group of people's dream. They stem from a quality that in a democratic society is encouraged and in a socialist society is stifled so that one may wallow in the oneness and greyness of government unity. That quality is the ambition to create. It is why at this point we still have a beautiful city and it is also why I sadly see the ruin of its greatness.

Rent control is our ruin. It has produced a tragedy in our city. It saddens us greatly to see people knocking, phoning and riding by the dozens every day looking desperately for a place to live. This weekend I had quite a few people approach me asking for an apartment for October 1, which is tomorrow. We have been offered cash to find them a place to live, and for the first time I got it in writing. The previous gentleman showed it to you, a reward of \$100 if we find a two-bedroom apartment for them.

Most people in this province cannot begin to understand what it is like not to be able to find a roof to cover their heads. Daily we are in contact with such people. I have seen some come to the point of tears. This saddens us. When, I ask you, will this government free our hands so we may work once again? We have empty land ready to go, zoned for apartments sitting, waiting until you show us we are equal citizens in this province.

It is urgent to change direction. Stop scaring away large and small construction companies from the rental market. To eliminate competition goes against the interest of the people. The government should be in the rental business only to look after the most needy of our citizens. These past 10 years have brought this city to its knees. Buildings that were once jewels are slums, and many times I wonder who could possibly live there.

When structures reach a certain age, they require much more maintenance and renovation. These include windows to be replaced, plumbing and roofing to be upgraded, halls to be repainted, just to name a few things. All this requires money and lots of skill in a trade, both of which some building owners may not have much of. In the last 12 months, construction costs have increased by 20 per cent. This includes the building material we use in our apartment.

Statistics Canada reports that the rise in consumer prices in Metro alone is 5.1 per cent. In the past, rents could be charged so that income was sufficient to cover expenses, but today the reality is that if you are not a jack of all trades, you must abandon your building to time.

On the other hand, much of the rundown condition is not the result of the landlord who is often singled out with a malicious finger, but also of certain tenants. These are tenants or their children who urinate in the halls, throw paper, food, cigarettes, gum, etc., in the hallways, carve their love hearts in the panelling of our lobbies, write on newly painted walls, throw garbage off their balconies, all with the blessing of the government.

The buildings we own are maintained above standard and we have a very good relationship with the vast majority of our tenants. Frequently, we have letters of appreciation from some of them because they acknowledge that we try the best to improve their living environment.

Although we have many good tenants, there are always a few who cause us concern and disruption. We go through those who give us a hard time in collecting the rent, those who have ill-trained pets, those whose filth causes disturbing smells in the hallways, to those who play loud music at all hours.

Another problem is the tenants who have mental problems or drug or alcohol addictions. When they move, we are left with devastated apartments. We are always the losers. To re-rent such an apartment requires a loss of time, hard work and money. It also requires that we re-rent the apartment at the same price. This area urgently requires a look. If I correctly understand Bill 51, section 60 is an attempt to deal with such a problem. If we have to make substantial repairs to a unit and incur substantial costs, it is just to expect that the new tenant, who will benefit from a beautiful apartment, will pay an increase.

Up to this point, it was impractical and impossible to bring one unit to the rent review. When rent control was first introduced, we were caught, along with many other owners, with below-market rents. At the time, the market was based on the democratic principle of supply and demand; that is, we had to provide the best possible apartment at the least possible price. In many cases, to keep our good tenants, we did not raise the rent yearly. Today, the vast majority of our units' rents are below a decent level. I have recently finished preparing the papers for the accountant for the closing of the company year. During the past year our company has subsidized a large number of our tenants, up to \$100 a month in subsidies in some cases.

Who are we that the government has chosen to put a double weight on our shoulders? Keep in mind that many of our tenants are in healthy financial conditions. We have building contractors, a dentist, an architect, engineers, wealthy retired people who have various investments and other professionals. These people should not be subsidized. They can afford to pay more. We do not believe in high rents, only in fair rents. All this does is worsen the severe housing shortage and aggravate the current situation. In the past, such people

would eventually have bought themselves a home. Today, they will consider no such thing; in fact, many rent out their homes and condominiums to enjoy subsidized living.

The people who really need apartments are the true victims of rent control. They cannot find a place to live. When some extreme groups cry that Bill 51 would squeeze money out of tenants' pockets into the landlords' hands, it makes me wonder. Up to this point, the only squeezing I know of has occurred to my family's pocket and the pockets of many others like us.

Many people claim they cannot afford to pay the rent. Some of these people genuinely need to be helped. The government must make the entire population responsible for helping, not one small group. The penalization should be stopped as soon as possible.

As I previously stated, our three buildings are in the Avenue Road-Highway 401 area. The square footage of our apartments is above average. The properties are assessed on the basis of their prime land location and square footage of the building, but the rents in the buildings do not reflect either of these factors.

The average rent in our apartment building on Avenue Road is \$374 a month; our average expenses are \$383 a month. The building on Wilson Avenue brings in an average unit income of \$342.26 a month, with expenses totalling an average of \$401.35 a month. Our expenses include the mortgage interest, realty taxes, bank charges, wages, repairs and maintenance, utilities and various sundries. Note that the income of the building is boosted because we have no janitor's apartment, and therefore we are receiving a monthly income for that unit. As well, expenditures are kept at a minimum because we are skilled in various trades. We do not count our hours, and we receive wages well below market worth.

About four years ago, we invested quite a bit of money in our 11-plex building. My father designed a cottage-style roof to replace a flat roof and double windows were added. This increased the beauty of the building, which now looks like a villa, and created a much warmer building. We did not go to rent review. We did not ask a penny from our tenants. Why? Because our existence is based on working. Time is a precious commodity. The aggravation and tension it would have caused between us and our tenants was not what we wanted. We did not have a mortgage on the property. My parents were not aware of the laws, and we were led to believe that no compensation was possible. Our tenants are the true beneficiaries of all this, but you cannot begin to imagine the strain it puts on us.

With Bill 51, there is finally an acknowledgement of problems that previously fell on deaf ears. For the first time in 10 years, we have an attempt to deal with them. It is truly a historic piece of legislation, because tenants and landlords got together to try to deal with a problem that threatens the very fabric of the city and the province. I strongly believe that we do not represent opposing groups. Our ideals are opposed only by extremist tenants or a few landlords but not by the other tenant-landlord relationships.

15:40

I have a few letters to illustrate our relationship with our tenants. One says, "With many thanks for the fine job that you are doing in the building." Another letter, from a tenant who is leaving the building, states,

"I enjoyed my stay here and want to thank you for your excellent service in maintaining the building." A final letter reads: "I just wanted to compliment you on how lovely the building is looking with all your painting and renovations. Such a difference, and it looks so fresh. Thanks very much."

We need each other, and therefore we must collaborate to strive to attain the best possible living environment. No longer can we equate landlord with "rich" or tenant with "poor." Those times are far behind us. Today there are poor landlords and rich tenants.

I truly hope that when you honourable members took the responsibility of sitting on this committee, you did so with open minds. I hope you had not already decided that the rent control formula in this bill was too generous, or not enough, before you heard the people who live out this reality daily.

Bill 51 is the first step of many that will have to come to attempt to undo the economic oppression, the slum conditions and severe housing shortage that have been the legacy of rent control. Although I must agree it is far from ideal, it is a positive attempt to alleviate and not to aggravate the situation. It is like patching a break in a flood dike with a bandage to solve a problem. The government keeps adding bandages, ignoring the true root of the problem.

I have had the opportunity to sit in on a few of these hearings, and I have tried to read whatever I could find in the newspapers regarding the review of this bill. It seems to me that most people are missing a point. It is high time we set aside our political ideologies and tried to solve this tragedy. Many are ready to dismiss this bill because they believe builders will not run out tomorrow and start building. I realize we live in a time of instant this and fast that: this problem cannot be solved with that frame of mind.

We have yet to see legislation that fully solves any one problem, and this case is no different. Do not tamper with Bill 51 or you will tip a delicate balance. If you truly want to work towards solving this problem, pass this bill and let time be its judge. We are watching and waiting with the hope that this honourable committee can come up with a fair solution.

Mr. Jackson: Thank you. That was an interesting presentation, the basic theme of which, that the smaller landlord, the ma-and-pa family type of ownership situation, and how many have suggested it will come to an end by virtue of this bill, we have heard on several occasions.

Do you have a very brief understanding or a very good understanding of the bill?

Ms. L. Antinori: I have read parts of it. I am not sure whether I fully understand it.

Mr. Jackson: There is a clear distinction between post-1975 buildings and pre-1976 buildings, and I assume from your presentation that you and your family fit in the category of owners of pre-1976 buildings.

Ms. L. Antinori: Yes. These buildings were built in the 1950s.

Mr. Jackson: There has been considerable discussion that there are more avenues for a rent increase for a post-1975 building than there are for a pre-1976 building. That is one area in which we could assist in this bill. Do

you agree that we should be amending the bill to assist--have you not been suffering under the previous legislation for 10 years, whereas the other landlords have operated outside of the bill for 10 years?

Ms. L. Antinori: The ones who have built their buildings after 1976?

Mr. Jackson: That is correct.

Ms. L. Antinori Yes. Also, if I understand correctly, under the present legislation our apartment buildings would not fall into the-help-for-the-depressed-rent situation. We purchased two of the buildings in the past year and therefore have not been not owners since 1982.

Mr. Jackson: I will let Mr. Peters answer that. You are talking about the new bill when you say the present bill.

Mr. Peters: If the buildings were purchased in the past year, they would not qualify as having satisfied one of the three tests for the chronically depressed rent.

Mr. Jackson: It strikes me that you have given me two reasons why I should be amending this bill.

Ms. L. Antinori: As I said, with time, amendments should be made, but to tamper with the bill now would probably cause much opposition; it might tip a delicate balance.

Mr. Jackson: I am not going to challenge you on the notion that--

Ms. L. Antinori: There are many amendments that should be made. It is not an ideal bill for us, but at least it helps someone else. There are other aspects of the bill, such as equalization of grants, that perhaps can help us. Also, if I read it correctly, certain units can be brought to rent review without bringing the whole building. At present, you have to bring the whole building. We are satisfied with some of the rents but not with others. To bring the whole building is too much of an aggravation for us and the tenants. With the new bill, we hope there will be the opportunity to bring the few units that need to be increased most desperately.

Mr. Jackson: You have brought up a couple of more areas. Are there more areas of the bill that you are concerned we maintain? Are there areas you would suggest we improve aside from the catch 22 with the purchase of your buildings in the past two years?

Ms. L. Antinori: Another point I mentioned was that it is important to make an adjustment for units that are in the worst condition. When we go in when tenants move, we find smashed doors, broken window panes and many other damages; I could go on and on. To re-rent and make the apartment livable, we have to put in lots of money. Our time is not included in this. I can see how some landlords have it worse than we do. It is very important that you give us some type of economic compensation for this. We are in a bind now. We have to rent at the same price as with the previous person. It is almost better if those people do not move out so we are not faced with that situation. Perhaps that can be brought to people's attention.

Also, there are a lot of times when we have problems with people giving us the rental money. We have to pay our bills on time or we lose our building. When they do not pay us, we have to go into other reserves to get the money to

pay these bills so we can keep the building. There should be stricter laws concerning this so we can move faster to get our money. I do not mean anything unfair or outrageous, but something so it does not take months to get our money. We need to hire a lawyer for this. It almost makes it not worth the time for tenants who do damage. Is there any way we can get that money from them?

Mr. Jackson: I will defer that question for a moment. I want to ask about the concept of the rent registry. You understand basically how the rent registry will work. We have had several people come forward who have indicated the point you raised, that if it is fair for a tenant to be protected in terms of his income, landlords as well should be protected from tenants who get into the habit of malicious damage or nonpayment.

Your point that we can no longer say all landlords are rich and all tenants are poor is a dead-on statement. Do you then agree with the point that the rent registry should have some protection along the lines you have--

Ms. L. Antinori: If we are required to follow the law and we have certain restrictions, there should also be restrictions on them. You have to give and take. You cannot just give.

Mr. Jackson: Very good. You had a question about rights that we were going to refer to the ministry. Perhaps Mr. Peters can help, if I can direct the question to him, as to what rights a landlord has with respect to the situation the deputant has given as an example, nonpayment or malicious damage to an apartment.

15:50

Mr. Peters: The protections that are available in those instances are restricted to those available under the Landlord and Tenant Act. It has been the substance of more than one comment by smaller landlords that they find some of those solutions onerous in terms of lost time and the court and associated costs. For some, the chance of recovery is not great. Those issues are not addressed by Bill 51; rather, they relate to the administration of the Landlord and Tenant Act, which is a separate piece of legislation.

Mr. Taylor: Your concern is one of fairness, an even and delicate balance between landlord and tenant interests. To interpret what you are saying, you are pointing out that the landlords' interests are not being fairly considered; it is one-sided.

I understand that the costs are punishing to try to retain lawyers to pursue these matters in and out of the courts, to collect rent, to collect for damages and so on. Even rent review applications are expensive. You have to absorb all that and it becomes a business judgement as to whether you pursue it. In your case, you said that often you do not, because it is not economic to do so.

My understanding of your question to the minister is: "What is the government doing for the landlords to help them pursue their interests? Are you just interested in pursuing the interests of the tenant?" Do I interpret your message fairly clearly?

Ms. L. Antinori: Pretty well. When we find damages in apartments, we fix them and do not bother going after the people; it is not worth our time. Is there any way we can be helped with this?

Hon. Mr. Curling: Mr. Peters indicated that those jurisdictions come under the Landlord and Tenant Act. My colleague asks, which I know is not the complete thrust of the question, what we are doing for the landlord with this bill. You yourself said it was a delicate balance, meaning there are things in the bill that address your needs and treat landlords fairly as well as things that protect tenants.

You have also indicated that while we would like to see this bill address all concerns and rectify a situation that has gone sour for years, we cannot do it. I agree with you; it is not a perfect bill at all. As we go along, I will see that things that are not addressed in their entirety will be addressed in the years to come.

Mr. Jackson: I have a supplementary, Mr. Chairman.

The Acting Chairman (Mr. Cordiano): I have Mrs. Caplan first.

Ms. Caplan: You made a couple of important points that I would ask you to consider again. You discuss the fact that you had not gone to rent review in the past for two reasons. One was that you had a very good relationship with your tenants and you felt it would disturb that kind of relationship and create the kind of confrontation between landlord and tenants that we have heard has happened in so many places across the province.

The second reason was the adversarial nature of going to rent review and perhaps being intimidated by that process. The new bill removes that kind of courtroom adversarial atmosphere. What I heard you say was that you supported the bill for that reason; it would allow you to serve your tenants and maintain a relationship with them.

I would like you to address that for a moment. How familiar was your company with what was available to you in the past? Was it because of your concern about individual tenants or the building as a whole that you did not proceed?

Ms. L. Antinori: In the past, as I pointed out about the 11-plex when we built the cottage roof and the double windows, we were very unfamiliar with what laws there were to protect us. We did not have a mortgage, since it was an old building and over time my parents had paid it off. We were told there was no way we could expect--as long as you make a profit, it does not matter what it is--

Interjection.

Ms. L. Antinori: You hear it from other landlords and you do not bother trying to go. You do not want to pay for the lawyer or your time. As I said, when you have a family business, your time is precious.

Ms. Caplan: Would it be fair to say you were intimidated by the process?

Ms. L. Antinori: We were intimidated. Also, as I said before, we did not need to bring the whole building to rent review. The way the situation is now, we are considering and we are going to take our two new buildings. There is no way we can continue, because we are operating at a loss, but we are waiting to see whether this bill can be passed. We want to see exactly what we have to do.

Mr. Taylor: Can you clarify whether the process is going to be simpler or less expensive, or whether it is going to be equally complicated and equally if not more expensive? That is the issue here, as I understood Ms. Caplan and the witness. Is that right?

Ms. Caplan: My understanding of the new bill is that it is far less complicated and far less adversarial. It is an administrative process as opposed to a courtroom process, which should be far less intimidating to both landlord and tenant. They will not require lawyers or agents to come to assist them. Perhaps Mr. Peters can address that.

The Acting Chairman: The minister might like to comment.

Hon. Mr. Curling: I gather you are saying you find this bill will be less intimidating and will be able to address some of your concerns. That is what I am hearing. If you are asking me that, of course it is a bill that addresses some of the needs. You may think that is biased.

I think you are asking, is the presenter saying it is far less adversarial and easier to deal with? I heard you saying also that you did not have the amount of information to bring that forward. I want to say the bill does that in order to get all the small landlords--everyone, tenants and landlords--informed about the process. This will help you and will take away that intimidation with the process.

Mr. Taylor: Mr. Chairman, can we have an answer on that question? It is fundamental.

I talked to a lawyer today, and he told me there were some concerns. They have reached the point where they have to go through this process. He said it was going to cost the landlord something like \$25,000. This is a lot of money. I do not know how you can accommodate that kind of thing. Is this legislation going to alleviate that oppression, in terms not only of the aggravation and time of the landlord and all the rest of it but also those punishing costs?

Someone who knows how this is going to operate in the field should be able to answer that. I can speculate, but I want someone who actually knows how this will function, what the process is for the rent review officer. What is involved in that--the witnesses, the time, the appeal procedure? I want to know what the dollars and cents are. They say there is no wrong without a remedy, but you can deny justice by delaying it. It can become so expensive that you deny it as well.

The Acting Chairman: Mr. Taylor, I have to cut you off at that point. Ms. Caplan had the floor.

Mr. Taylor: I am finished at that point. I am looking for answers.

Ms. Caplan: I yield to the minister so he can answer that question.

Mr. Taylor: I think the technicians should answer it. I do not expect the minister to answer it.

The Acting Chairman: Are you asking for a clarification from the ministry or are you asking the minister to comment on policy?

Mr. Taylor: The ministry, yes; not the policy. I want to know the nuts and bolts. It is one thing when you have the law written out in this

legal language, which is incomprehensible to most if they want to look at this legislation. It is baffling. I am saying it is complicated enough to get all the legal language.

However, jump out of that statute, put yourself in a building, whether it is a little fourplex, an eightplex, a high-rise or whatever it is, as a landlord or as a tenant. Then let us say you have a dispute--and we have heard all kinds of them--tell me what the process is. Apply that legislation and tell me what you go through to get some satisfaction.

The system has become so complicated, we have so much government, it takes so much time and it is so costly that nothing comes out the other end. We are going to develop a nation of hypochondriacs or psychosomatics or something because of the problems.

The Acting Chairman: I am going to ask the witness to--

Mr. Taylor: Just a minute, Mr. Chairman, I want to speak. I am entitled to speak, as a member of this committee.

I want an answer to this from a technician, the people who know how it works in the field, not somebody who wants to interpret a statute or talk about policy.

16:00

The Acting Chairman: Perhaps we can ask Mr. Peters to comment after the minister is given an opportunity to comment.

Hon. Mr. Curling: Mr. Taylor, your emotion has been shown by some of the landlords themselves and some of the tenants who thought that the process was too adversarial. I will answer you; I gave you your chance. They thought the time they spent in having their cases heard was too long. I have shortened the administrative process that is in place. I have taken away the adversarial aspect.

Time costs money, as you said. That part has allowed people to settle their disputes and save money in that way. You say you want a dollar figure on that. I cannot give you a dollar figure on it. I do not know whether my staff is able to give you a dollar figure on it.

I will go further. Perhaps you were not in the committee at the time, but my staff was asked about presenting some backup material to show how we came to that conclusion, which is exactly what you asked. Today we presented in the committee--

Mr. Taylor: I have it. I have looked at it already. That is the flow chart. I have been on the committee. The reason I was not present at times was to give way so that the critic of our party would be able to be on this committee. Those are the only times I have been absent.

Hon. Mr. Curling: I am not arguing with you. I am just saying that it was presented. You have been a great contributor to this committee, sir.

The Acting Chairman: Gentlemen and ladies, the time is running out. I am going to allow two more brief questions.

Mr. Taylor: We have not had an answer to this one yet. We were going to let the technician answer.

The Acting Chairman: I gave the minister an opportunity to answer the question. If you want further clarification, I will allow one brief comment from the ministry.

Mr. Peters: There is no doubt that the perceived and real fundamental improvement is through the administrative review process. The key element in that process is to move away from a system that, by definition, fosters conflict, is time-consuming and, for some, is less than satisfying in its end result.

The new system is based on--and I have used the phrase before--the rent review administrator becoming an honest broker and trying to make sure the applicant, whether landlord or tenant, is fully aware of his rights under the act and can make the appropriate application.

As we indicated when we made the presentation before the committee, we are confident that the way the process will work will result in a decision being made 15 days in advance of the first date on which the rent increase should take place. That in itself would be a marked improvement over the current situation in which the decisions sometimes are delayed and the landlord is then charged with the requirement of collecting rents retroactively, assuming for the moment an appeal is reached. In some cases, that results in a net loss to the landlord.

As I have also stated previously, some of the concepts in the act are complex, but the instructions and the process will be much more direct, less adversarial and more straightforward.

The Acting Chairman: I have two more questioners, Mr. Jackson and Mr. Gordon. I ask you to be brief.

Mr. Jackson: My question has to do with your response to the notion that the current procedure of rent review is adversarial. Have you ever been to rent review at all?

Ms. L. Antinori: No, we have not.

Mr. Jackson: If I was listening to you carefully--I do not want to put words into your mouth--you indicated you were advised by other landlords that you would not get the kind of increases you needed. You were not afraid that you would have to sit down and tell the truth to a tenant about your books.

Ms. L. Antinori: No.

Mr. Jackson: You were worried that the previous bill was far more biased towards tenants than this bill.

Ms. L. Antinori: This is a positive step towards making rents fair.

Mr. Jackson: I agree with you.

Ms. L. Antinori: This is a first step towards making the rents fair. Once that is achieved, we can reinvest the money we get.

Mr. Jackson: I understand. I was just trying to clarify.

Ms. Caplan was suggesting that the reason you did not go to rent control was that the process was adversarial and you did not want that. What I thought

I heard you say was that under the old system it was more heavily favoured towards tenants. You have been led to believe that this one is more balanced, positive and fair for landlords, not tenants.

Ms. Caplan: That is not what I said.

Mr. Jackson: No, I did not say that. I asked whether that was her perception.

Ms. Caplan: I asked her whether she was intimidated by the previous system and whether she felt it was adversarial.

Mr. Jackson: I found it unusual that someone could answer, given that she had never been before the process.

Ms. Caplan: They never went, because they were intimidated by the process.

Mr. Jackson: No.

Ms. Caplan: That is what she said.

Mr. Jackson: They were told by their friends that they would lose money. She has clarified that.

The Acting Chairman: Why do you not step outside and sort this out?

My last question is, on what basis do you come to the conclusion that the new process will take less time, have fewer hurdles and you will not have to employ a lawyer or an accountant to assist you with the process? Why do you make that assumption?

Ms. L. Antinori: As I said before, we will not have to bring the entire building. I am sure you have heard many times that rents within a building are not the same for all one-bedrooms, all bachelors or all two-bedrooms. We may bring in only the units for which we think the rents should be raised. We do not have to bring in the whole building and aggravate all the tenants for no reason.

Mr. Jackson: You still have to do the preparation with all the expenses. There are approximately four different ways in which you can raise rents above the basic guideline in the new legislation. Are you aware that in the old legislation, there are points in the process on which a landlord can run into difficulty with the law because he does not make a certain guideline or file on a specific date? He runs the risk. Ninety days before the notice period, you have to give the tenant notice of the increase. That is a threshold, a guideline or a date. If you miss it, you go right back and you cannot charge a rent increase, according to the law.

Under the new bill, there are somewhere in the neighbourhood of 36 or 37 of those thresholds, and if you mess up with them, misinterpret them or if you do not follow the guidelines correctly, you will have to go back to the basic rent. Are you aware there is that much more process involved?

Ms. L. Antinori: In the new bill?

Mr. Jackson: Yes.

Ms. L. Antinori: No, I am not aware of that.

Mr. Jackson: I think you should look at that. It comes even from ministry staff. I am not saying it is a good bill or a bad bill. I just want you to be sure that you understand there is more work involved in your understanding it when you go forward with an application. It is more complex.

It may be fairer; I do not want to put a value on it, but it is definitely more complex to deal with.

The Acting Chairman (Mr. Reville): That is your interpretation.

Mr. Gordon: Was it your point that at present you cannot get compensation for damages done to an apartment and the time that you put into rectifying that?

Ms. L. Antinori: You can get compensation if you go after the tenants who have left. I was saying it is not worth your time and your legal expenses. What you might get back might not be comparable to what you put in. I was making the point that when we put work and money into a unit, it should be rented for more, not at the same price as before. We may have to paint the walls or whatever. When you move in, you enjoy a nice new apartment.

Mr. Gordon: All right. That is the question. This young lady wanted to know whether there was provision in this legislation to cover those kinds of costs. I would like to ask the minister whether there is.

Hon. Mr. Curling: I know there is provision for equity in this. Let me ask Dr. Laverty to expand on it.

Mr. Laverty: In many circumstances, you might be talking about expenses available as capital expenditures. that is, where you are replacing capital items.

Mr. Gordon: Would you give examples, please?

Mr. Laverty: If a door or a window were smashed or if you had a great deal of damage and required a great deal of work to put the apartment back in sound order, it is probable that amount would be eligible for capital expenditure.

Mr. Gordon: You say "probable."

Mr. Laverty: There may be some circumstances in which it is merely cleaning. If the cleaning bill were not inordinately large, it might be deemed an operating expense. In that case, it might be considered under the extraordinary operating cost provision in section 72. It would seem to me that those extraordinary expenditures would be recoverable through rent review if they did make an application.

16:10

Mr. Gordon: Would that include the time a landlord would have spent, for example, installing a door or replacing the windows rather than hiring a carpenter to do it? Could he charge a flat rate for that?

Mr. Laverty: Under section 75 of the act, when you make a capital expenditure, you are allowed to charge amounts related to your own labour input.

Hon. Mr. Curling: It might be important at this time to tell the committee and to tell you that the Rent Review Advisory Committee will also be reviewing the Landlord and Tenant Act. As we have indicated to you, at times, some of these things that you mentioned come under the jurisdiction of the Landlord and Tenant Act. RRAC will be looking at that and reviewing it.

The Acting Chairman: From the chair, it is important to note that while the committee will be reviewing the Landlord and Tenant Act, it is up to the government to bring in amendments to the Landlord and Tenant Act. We do not know whether that will happen, do we?

Ms. Caplan: He is very sensitive to the RRAC's recommendations.

The Acting Chairman: Yes, I know. The minister is sensitive, you are sensitive, we are all sensitive here. We are very sensitive today. I do not know what is the matter with us. Were there any other questions? Mr. Pierce is sensitive too.

Mr. Pierce: With respect to Bill 51 as it is drafted and printed for legislation, what effect will the rent registry have? You know that the rents to be registered are those rents that were charged in July 1985. Those rents will stay in force until such time as you can make application to have them changed based on what your costs are for renting at present.

How will that impact upon the two buildings? The figures in your statement indicate that it costs you more to maintain and carry those buildings than you get in revenue. Those losses will be ongoing until such time as this application should be submitted, depending on the wisdom of the board to decide whether you are allowed an increase large enough to get you back up to make a profit again.

Ms. L. Antinori: We are pretty optimistic about who will be listening to our hearings.

Mr. Pierce: The other one that I am still having a bit of a problem with is that the good doctor explained to us that things such as broken doors, holes in the walls or broken windows would be considered as capital expenses. I am sure they would be considered as capital expenses only in respect to the rents that are allowed to be charged. They certainly are not considered to be capital expenses in respect to the Income Tax Act.

In general, they are repair and maintenance jobs. Unless you had a completely demolished apartment and you could show that it cost \$6,000, \$8,000 or \$10,000 to replace them, they would be classified as repair and maintenance on equipment. Are we saying that the act will be different to the Income Tax Act for allowable expenses? The other thing is--

The Acting Chairman: Why do we not get an answer on that one?

Mr. Pierce: All right.

Mr. Laverty: There is no necessity for rent review rules to conform to the income tax, as you are well aware.

Mr. Jackson: That is a great way to answer that.

Mr. Pierce: I can appreciate the response. The other thing is that for the benefit of the owner in respect to his income tax, those types of

expenses are better written off immediately as repair and maintenance as opposed to amortizing them over 20 years on capital expenses.

Mr. Lavery: Mr. Pierce, you recall that I also referred to the possibility that they might be allowed as extraordinary operating costs. If you had an expenditure which was more of a nature of an operating cost, it could be allowable as such and considered for immediate pass-through.

It is a question of whether the item was a door, counters or whatever, which is a capital item, or whether it was an item that was cleaning or maintenance, in which case it could be considered as part of an extraordinary operating cost.

Mr. Pierce: Could you point out to me the section of the act that would allow the landlord owner to carry over the cost of that capital expense to the new tenant? I will cite you a case of a \$5,000-repair job as a result of a bad tenant who has just left. You want to carry that expense over to the new tenant. Can you give me the clause in Bill 51 that allows him to do that?

Mr. Lavery: The allowance for capital expenditures in clause 72(b) refers to both capital expenditures and extraordinary operating costs. However, I note that the landlord could still take legal action against the former tenant for damages. I am not suggesting he would not have that course.

Mr. Pierce: Would the landlord have to show he had initiated that legal action before the commission would allow the cost to be carried over to the new tenant? Remember that the new tenant can phone the rent registry office and find out that the rent was only \$400 before the vacancy. Now all of a sudden there is recognition that there has been \$5,000 in repairs because of the previous tenant that is going to be picked up by the new tenant.

Mr. Lavery: To increase the rent by more than section 68 allows, there would have to be an application to rent review. Once rent review made a decision, it would automatically be entered into the registry and therefore there would be no discrepancy between the rent charged and the rent recorded in the registry.

Mr. Pierce: There is also the right to appeal by the incoming tenant.

Mr. Lavery: No. There must be an application by the landlord and all the tenants in the building would be parties to that application.

Mr. Pierce: I still want to go back to this. A number of landlords have made representations to us in the past month and a half indicating that there are some bad tenants out there and there are some damaged apartments. A fair amount of money is being expended to put these apartments back in a condition where they can be rented. The landlord has no way of recovering the cost of that damage other than to chase a tenant around the country and take him through the courts, which is a long, drawn-out, expensive process. At the same time he is trying to make the accommodation presentable for somebody else to rent and is not able to charge the additional rent required to recover the cost of repairs.

Mr. Cordiano: What provision was there in the existing bill?

Mr. Pierce: I am not talking about the old act. I am talking about Bill 51. Perhaps we can have the answers come from the front.

The Acting Chairman: Actually, Mr. Pierce, Mr. Laverty has answered that question on a couple of occasions. In fact, the bill does not allow a landlord to increase the rent above the guideline in the absence of a rent review application. There are some provisions in the bill, as we all know, that govern the rent review applications. I think he has explained the circumstances that would pertain.

Mr. Pierce: Mr. Chairman, in that respect, you and I and the rest of the members of this committee have had an opportunity to hear that explanation in previous presentations. This young lady is here today to get those answers as well. She is entitled to that kind of a response. Your response to her then is that things have not changed.

The Acting Chairman: No, that is not what I said.

Mr. Pierce: We are going down the same road.

The Acting Chairman: I said the rent may not be increased by more than the guideline in the absence of a successful rent review application. The tenants are allowed to appeal any decision of the rent review administrator and the landlord is allowed to bring forward costs that are related to the operation of the building. The rent review administrator in the first instance will make a determination. If either the landlord or the tenants involved do not like it, they can go through a full-blown appeal process.

Mr. Taylor: Is that retroactive so that if you let a tenant in before you go through that process, you can pick up from the tenant the increase that you are permitted, or do you leave the apartment vacant until you go through the process so that you are bringing the tenant in at a legal rent? You do not know the legal rent until after the process is finished. Can you clarify that?

The Acting Chairman: No, I am not going to answer that question.

Mr. Taylor: Can the staff answer it?

16:20

Mr. Laverty: As I understand your question on when the increased rents would take effect, they would take effect on two conditions. First, a rent increase on any unit under section 67 of the act can occur only once every 12 months to prevent multiple increases given to the tenant during a given year. Second, a rent increase requires a 90-day notice from the landlord to the tenant under section 5, indicating to him the intention to increase his rent. As long as those two conditions are allowed, the rent increase can go forward subject to the possibility of a rent review if the request for it is for an amount that exceeds the amount allowed in section 68, which deals with the guideline for maximum rents.

Mr. Taylor: Assuming that is so, which we are talking about here--the lady was talking about types of tenants who can leave an apartment in a shambles such as alcoholics or those who have greater problems such as drugs and so on, and we were talking about damaged doors and windows and that type of thing which one would not expect and therefore are extraordinary expenses--you would have to go beyond your guidelines in the statute so that you would then have to serve a 90-day notice and make sure that was the only notice in the past 12 months on that unit. Is that correct?

Mr. Laverty: More or less, yes.

Mr. Taylor: Okay. You have to go through that process before you can rent your vacant apartment and establish a new rent. For example, assuming that we have justice in the province and the ruling is that you can increase your rent beyond the guidelines, then when that ruling is made and finalized, taking into consideration all the appeals and so on--which may be six months, nine months or a year later; I do not know--will that be retroactive to the date the tenant went in? Or, do you have to leave your apartment vacant to ensure that you can charge that rent? Do you understand what I am saying?

Mr. Laverty: The rent will become effective as of the first date that the two notices allow it to. If you were to leave a unit vacant until that time, you would not only have the expense of the repair of the unit but you would also be losing the rent revenues during that period. In all likelihood, you would be much better off to rent the unit as soon as possible and then give the two notices as soon as you could under the law.

Mr. Taylor: Can you advise your tenant when he comes in that his rent may be increased more than the guidelines because of the application you are making? Then, if you are successful, can you pick up from that tenant the increased rent?

Mr. Laverty: Yes. Under section 19, the tenant coming in would receive a notice of any application you had made and any decision that had been made by rent review and would be duly informed of the rent he would be expected to pay if he chose to rent the apartment.

Mr. Taylor: So the ruling would be retroactive. Is that what you are saying?

Mr. Laverty: No. It would take effect as of the date in which the notice for rent increase and the 12-month wait between annual rent increases took effect.

Mr. Jackson: Just to clarify the point that was brought--

The Acting Chairman: No. We are half an hour behind time.

Mr. Jackson: I got it. If other members--

The Acting Chairman: In effect, this is no different to the system that has been in place for 11 years.

Mr. Jackson: You just told Mr. Pierce five minutes ago that you were not going to say that. Now you just did.

The Acting Chairman: I am being honest, Mr. Pierce. The situation about getting over the guideline has pertained for 11 years, unless the increases have been illegal.

Mr. Pierce: So we have not changed a thing.

The Acting Chairman: About the way the rent is increased. The process is different, Mr. Pierce.

Mr. Pierce: The young lady's question was in respect to damaged apartments and trying to recover the cost of repairing them.

Mr. Gordon: A total sham. Smoke and mirrors.

The Acting Chairman: Well, listen, do not look to me to defend the bill.

Interjection: You are the chairman.

The Acting Chairman: I am trying to explain what the facts are in the bill, not whether the policy is correct or incorrect. The fact of the matter is that it will continue to be somewhat of a problem for landlords who have tenants who wreck the joint.

Mr. Pierce: That is really all that I have asked for.

The Acting Chairman: There are ways to recover the costs, either through the legal system or through the rent review system. They may or they may not. I do not know.

Mr. Pierce: I just do not want to see this young lady--

Interjections.

Ms. Caplan: An important point needs to be made, Mr. Chairman, is that there are significant changes in the system.

The Acting Chairman: That will allow for sweat equity, for instance.

Ms. Caplan: Absolutely.

The Acting Chairman: Not ever allowed before.

Ms. Caplan: That should be noted.

Mr. Pierce: Mr. Chairman, the deputant has a question.

Ms. L. Antinori: Maybe just a clarification. When we have these tenants who, let us say, wreck our buildings or apartment units and we have to go through this process, as has been said, it is economically unsound for us not to re-rent the unit once it is fixed up. It takes time to go through this process and in the meantime we have been charging the old rent. When we get the increase, I do not understand why it cannot be retroactive to the date when the tenant comes in. When there are illegal increases or whatever the case may be, tenants can go back five and six years. Why can we not go back a few months? I would think that would be only fair. In my opinion, that is a double standard.

The Acting Chairman: I think what Dr. Lavery said was that the increase can take effect on the date of the 12th month or the 90-day period. You should be able to recover your costs, regardless of whether you get a tenant or not. Obviously, it is your decision whether you leave the unit vacant, but it does not seem like a sensible decision.

Ms. L. Antinori: Maybe I have misunderstood something. A lot of times we have tenants--maybe you can help me clarify this--

The Acting Chairman: It might be more useful if you talk to this guy here or one of the ministry staff and get this all straight because it is

indeed very complicated. I do not know whether you are a member of the Fair Rental Policy Organization of Ontario.

Ms. L. Antinori: Yes, we are.

The Acting Chairman: They have lots of people who know how this act works and you could talk to them about it too. Then you would get another view of this picture.

Ms. L. Antinori: Okay.

Mr. Cordiano: Just see that gentleman over there. He can answer all your questions.

Mr. Taylor: Are you not glad this is a new, simplified, streamlined bill?

Ms. L. Antinori: You cannot get much worse than we are.

The Acting Chairman: Thank you very much for coming before us. You have obviously stimulated a lot of discussion.

Ms. L. Antinori: Thank you for your time.

Mr. Jackson: That is true. It could not be any worse. Right?

The Acting Chairman: I think Mr. Emery is the next presenter. John Emery. Sorry to be late for you, Mr. Emery.

Mr. Emery: It is quite all right. It has been most entertaining. It is better than watching TV soaps in the afternoon.

The Acting Chairman: That is easy for you to say.

In order to be picked up by Hansard, you have to sit down.

Mr. Emery: I have to sit down. Okay. I have had typed up here a summary of some of my comments. I suppose it would be in order for me to--

The Acting Chairman: The clerk will make sure we get them. Thank you.

JOHN EMERY

Mr. Emery: The young lady who was before me is quite a tough act to follow because I come from a totally different point of view.

To start off, as the chairman mentioned, my name is John Emery. I am a small businessman. I am one of the little guys, much like the previous speaker, who is trying to survive in Ontario. I would like to make some points with regard to Bill 51 and rent controls.

It is my understanding that, philosophically, most people do not agree with the idea of having rent controls at all if--and that is a very big "if," which I will underline with red--we can provide affordable housing to those who need it. That seems to be the problem. It strikes me I have heard the minister and a variety of other people state it again and again--affordable housing.

With that philosophy in mind, I would like to comment that I do not think the rental market per se can be looked at exclusively in a sense and say, "This is the rental market." It is a tremendously varied market, catering to all kinds of consumer needs, just like any other consumer product. As I believe Mr. Jackson referred to earlier on, if you look at rental housing as a commodity, let us look at it compared to cars. There is a Lada, which is a rather inexpensive car, and there is a Mercedes Benz, which is a very expensive vehicle. Using the car analogy, I am delighted to subsidize those people who wish to proceed and purchase a Lada and really need transportation and cannot afford it. I am really reluctant to subsidize a person who is driving a Mercedes Benz. It does not make any sense. It makes no sense whatsoever.

16:30

Therefore, probably it would make a lot of sense that if in the process of legislation we targeted our problem, instead of hitting it with a shotgun and hoping we will hit something because, obviously, we have not over the past 11 years of rent control. I think probably this province and the people in the province rely on our legislators--and I think this is terribly important--to make equitable decisions for everybody which have a certain amount of wisdom and are not necessarily always tainted with a political stripe. Let us make sense for the people in this province.

My particular end of the market is the very high end of the market. I am very small. I only have eight units. In fact, I thought I would do a little bit of research to see what really is this high end of the market. I got a copy of the 1986--in fact the last one--of the July Canada Mortgage and Housing Corp. rental study. In buildings of five units or more, I see there are 286,000 units in the Metropolitan Toronto area. Then I looked through it and discovered there are approximately 5,000 units with rents in excess of \$1,000 a month, which is 1.8 per cent of the marketplace.

I wondered how many of those units are really vacant. What are we dealing with here? Remember, ladies and gentlemen, I am now dealing with a very specific area of a very large marketplace. I discovered there are 169 units vacant, which is a 3.27 per cent vacancy rate.

Then I called a few economics professors and I talked to CMHC again and said: "What is supposed to be a reasonable, balanced vacancy rate? What would we like to have in this province?" They said, "If you could get 1.5 per cent to two per cent vacancy rate, we would be all over delighted." The old theory used to be about 2.9 per cent or three per cent. The current theory is that with a 1.5 per cent to two per cent vacancy rate everybody would be delighted. I said, "My little industry has a 3.27 per cent vacancy rate."

I wish the minister was here right now because I would like to know on what basis rent controls are being imposed upon my small area of the marketplace. It does not make any sense whatsoever. We have a huge vacancy rate, relative to economic thought, and yet we have rent control. What are the advantages if we did not have rent control, which is now proposed in the current legislation? What would be the advantage of exempting units of \$1,000 a month and above from rent control?

I think there are certain basic comments that can be made. First, if the government made such an action or such an effort, it would be showing the entire industry that the government is making a conscientious and real effort

to do something about the problems of rental housing in Ontario. Second, if you offer a large supply at any end of the marketplace, there will be a trickle-down effect. Let us say you offer a very large supply at the upper end of the marketplace; people who are in less expensive accommodation and want more expensive accommodation are going to move up, and then you have a trickle-down effect all through the entire line. The man who is in a \$700- or \$800-a-month apartment and would really like to pay \$1,500, if he could find something, would be able to find something; hence his apartment becomes vacant. Somebody else who needs that affordability can move into that apartment.

Finally, and I think this is important for Toronto because Toronto is a world-class city, when you have people coming to a place like Toronto who require, because of the nature of the individuals, certain specialized accommodation, I think it has to be provided or else we are not going to attract the top calibre, the top executives of the variety of corporations that come in.

Let us say a senior man comes in from General Motors; that may be a poor example, because GM is here right now. Suppose we had a new industry moving in from another car company. If these people cannot find reasonable accommodation, they will say: "Thank you very much, Ontario. We will go somewhere else with our car plant, our 2,000 jobs and the \$1-billion investment we were going to make in your province." There are far-reaching aspects of that.

The disadvantages of having rent control in the high end are obvious. You are going to put even further pressure on our already-tight marketplace. People such as myself are going to quit. I have already put up for sale properties that I have, because you are putting me out of business. Thank you very much. You are putting me out of business with this legislation with regard to not exempting the high end of the market.

Last, and this is another area that strikes me should be modified somewhat, is that with a vacancy rate of three per cent plus in the high end, rents float. They are very much market rents; they go up and down with the marketplace. If you have an economic downturn, your rents go down; if you have an economic recovery, your rents go up.

I can only give an example which, if it happened again, would put me totally out of business; in fact, it would probably put me into bankruptcy. In 1979, we had a booming economy. I had a particular apartment for rent for more than \$1,700 a month. In 1980 we had a crash. It took me three months to re-rent that apartment. If you work it out, that is a lot of money right there. I had to re-rent it at the equivalent of \$1,375 a month for two years, because \$1,375 was better than nothing, even though I was losing a fortune. I just managed to survive, and just this year our company has started to break even again. We took very serious repercussions.

If that ever happened again and our rent dropped from \$1,500 a month to \$900 a month because of economic necessity, under the legislation that is proposed, I could not move it back up again without going to rent control.

Ms. Caplan: That is not true. This would establish a legal rent, and if the market conditions were such that the market dictated lower rents because a legal rent had been established, when market conditions returned you could return to the maximum legal rent.

Mr. Emery: I am delighted to hear that comment.

Mr. Jackson: Is that true?

The Acting Chairman: That is true unless you are in a low end when your legal rent is established; then you are in trouble.

Ms. Caplan: It is important to know that the legal rent will be established. Then, if market conditions through additional supply or economic downturn result in lowering your rents to respond to the market, at such time as there is an economic upturn you can raise it to the legal rent plus the annual allowable building cost indexes. You will be protected.

Mr. Emery: With the exception as mentioned, that when I register rents we are in a down cycle already.

Ms. Caplan: That is the only exception, depending upon where you are.

Mr. Emery: I would suggest, if I may--

The Acting Chairman: You are supposed to be speaking now rather than us, so please suggest whatever you like.

Ms. Caplan: I just wanted to clarify that.

Mr. Emery: I called rent review and several other bodies of authority asking them to clarify this point. All the authorities indicated to me that what Ms. Caplan has just suggested was not the case.

Ms. Caplan: It is the case.

The Acting Chairman: You give Ms. Caplan their names and they will be fired.

Ms. Caplan: I think it is an important point that should be clarified. Can the ministry clarify?

The Acting Chairman: Sure they can.

Mr. Peters: If the gentlemen phoned the Residential Tenancy Commission, he was probably correctly advised that the provision does not apply under the current statute; it does, though, under the proposed legislation.

Mr. Emery: They indicated it would also apply to the future statute, Bill 51. I stand to be corrected.

In closing my summation, since as Ms. Caplan has indicated I could raise the rent again to the economic level provided I did not get caught in a downturn--which is another subject, and I hope we will not have one for a number of years--my second recommendation is to have all units that rent for \$1,000 a month and more exempt from rent control. I would like an answer from this committee, because I cannot find one ounce of justification anywhere for a policy other than this. I would be delighted to be told with facts and figures that I am incorrect.

The Acting Chairman: What you have asked is a policy question. I do not know whether anyone in the ministry wants to hazard an answer to that

question. As you pointed out, \$750 used to be exempt. That was removed by Bill 77. It stays removed in Bill 51. But there is a reason for it.

Mr. Peters: The only thing I can say in response is that it is a policy of the government, as I understand it, to extend rent regulation to all privately owned residential rental complexes in Ontario.

Mr. Emery: Yes, we all understand that.

16:40

Ms. Caplan: I believe that part of the rationale, if you will permit me, is that by establishing a ceiling, as there was in the past at \$750, there was an urgency, as we have heard from previous witnesses, to reach that point so they could be out of rent control. It led to an acceleration of rent increases, and it was detrimental to the housing market, which is in such short supply. You would find all kinds of construction, capital things, being done to a building so it would break through that ceiling. It has been recognized, I believe, that most of those very expensive units are post-1975, and this was the reason as well that the legislation deals with a fair rate of return but also says we are not going to permit gouging.

Many people were forced into units that were much more than they wanted to pay, because they could not find units that were more reasonably priced; it just accelerated and exacerbated the problem we had. The reason there is no cap is that you then get into a situation where you are constantly moving that cap up. Instead, this bill establishes for those post-1975 buildings the provision for economic loss and a fair rate of return and stops gouging in a market where there is no supply.

Mr. Emery: If I may I speak to that, I have some succinct answers to the comments of Ms. Caplan. First, there is no question that it is a very good point about people galloping their rents ahead to try to escape. That fact was recognized by the Thom commission in its report. Therefore, it was made law by the Conservative government that if you were under rent control at \$750, you were under rent control; no matter how much you increased your rent legally, you could not escape from the rent control net. I believe this solves that problem.

As far as gouging is concerned--

Ms. Caplan: I do not agree that it solves that problem.

The Acting Chairman: Maybe we could let Mr. Emery finish his speech.

Mr. Emery: Thank you. With regard to Ms. Caplan's comment about gouging, with a vacancy rate of three per cent plus in the \$1,000-plus apartments, probably the market would be the best judge of what is gouging and what is not gouging. If I know that if I ask a penny too much for an apartment that rents for \$2,000 a month, I will sit with an empty apartment for five months. The market is very effective; it is a very effective teacher.

Ms. Caplan: My response would be that in those upper units you have a market situation, and this bill will not have a detrimental effect on that market. In those cases where there would be an effort to gallop up to that rate to get out of it--and you are quite correct that it dealt only with those buildings that were then covered--because the law is being extended to include all buildings, you have exactly the same situation that occurred before.

I agree that at the upper end of the market you have a market situation. This law will not impact on the market, because there is a higher vacancy rate at the top end. On the other hand, if it were not uniformly distributed, you would see exactly the same kind of thing happening in these new buildings that are now brought under rent control: you would have galloping escalation to the point where you would then use that to be no longer under rent control.

Mr. Emery: I would think that in the wisdom of the legislators, if they did exempt buildings of \$1,000 and above, they would make the provision that you could not escalate out of it.

What is very detrimental to me, even though I ride with the free market--I am quite prepared to fight with the free market and put in broadloom, air-conditioning and everything else to try to survive. By the way, I do not make very much money; I have lost money five years in a row. I nearly went bankrupt. I had to mortgage out just to get the money out. It is no easy task out there.

I am quite prepared to fight with the market circumstances. I am not prepared to fight the onus of government legislation, because I know that just as a Mercedes Benz cost \$13,000 a few years ago, now it costs \$33,000. Things change, and you have to have the right to move your rents around to move and swing with the marketplace. That is the reality of the free market in the consumer-oriented industry.

Ms. Caplan: Unfortunately, we have a supply crisis, and we do not have a free market in housing, which is an essential product. I do not think you can compare it to the car market at all.

Mr. Emery: Not in my area, Mrs. Caplan.

Mr. Jackson: What is the range of your current rents?

Mr. Emery: The lowest is about \$1,200 to \$1,300 a month, the highest about \$2,700 a month.

Mr. Jackson: By your own description, marketing conditions are such that you could be getting a better rent if the vacancy rate were much lower.

Mr. Emery: Sure. Theoretically, I probably could.

Mr. Jackson: I am setting up a question.

Mr. Emery: All right.

Mr. Jackson: Mrs. Caplan assisted you with one of your points. You can set a legal rent and then charge a much lower rent, but your catchup could be what the market will bear. I hope, Mr. Peters, it will be as simple as that. The deputant said his cheapest rent was \$1,260 or whatever. As long as the rent registry shows the \$1,260, he could charge \$900; and if the market could bear the \$1,260, he could charge the \$1,260 to the next tenant who came up. Is it as simple as that?

Interjection.

Mr. Jackson: Okay. Is there anything preventing you from setting the legal rent of \$1,500 for your unit now at \$1,260 but still charging only \$900 or \$1,200?

Mr. Emery: I believe, and I could be wrong, that under the law I have to set the legal rent at what that tenant is paying today.

Ms. E. J. Smith: July 1.

Mr. Emery: I am sorry; it is not even today, it is backdated, is it not? What it was in July 1985 is what the rent will be.

Mr. Jackson: You had made the proviso that it would be fair, provided the point at which you pegged your rents had market conditions that were, on average, fair. Do you feel that date is fair in your circumstance, or are you in a position to tell us that?

Mr. Emery: It is very difficult to say. I suggest the market conditions now are somewhat better than they were in July. In fact, there is no question about it.

Ms. E. J. Smith: You realize that under the new act, when you first put a place on the market, you choose and set your rent and it allows for economic rent losses at first, while you are building up your clientele, which always happens to landlords. That can be capitalized as a part of the capital cost of building it.

Mr. Emery: I am not sure of all the provisions. My buildings are older; they are not brand-new buildings.

Ms. E. J. Smith: Yes. You are in a different category. You were exempt because of the \$750. Were you pre-1975?

Mr. Emery: Yes.

Ms. E. J. Smith: You were exempt because of the \$750 limit. Not looking at your case maybe, but generally speaking, for someone such as yourself who had no controls on and was free to do what you wanted, a government has to pick some date--and this relates to one of the bills we introduced and so on--and July 1985 should not seem a particularly depressed time for someone in the \$750 bracket. I would think the market was fairly stable in that range of rents at that time.

Mr. Emery: Possibly I can give you a very specific example in regard to your point. I had a two-year lease which expired one month prior to July 1, 1985. That lease was undervalued by about \$600 to \$700 a month, I believe, because when I rented that apartment, we were in trouble. I am lucky it came out a month before your deadline. If it had come up a month after your deadline, thank you very much, I would have serious problems. I have only eight units; every unit counts.

Ms. E. J. Smith: Individual problems have to be dealt with along with all the individual exceptions.

Mr. Emery: I appreciate that, but backdating is not necessarily desirable.

16:50

Ms. E. J. Smith: In the general line of things, if there was a reasonably stable in market in July and if those were the rents that were prevailing in a reasonably stable market, even if you had to drop down, you

could go back, as we have pointed out. You can go back up; in fact, the guidelines add to your legal rent every year even if you are still down below. In other words, if you had a unit renting for \$1,500 and you could rent it for only \$1,300, every year when the guideline approval goes in, your legal rent is automatically upped even though you did not do it.

Looking ahead, I think you can see that every effort is being made to make it fair for people in situations such as yours. There is a fair rate of return built in and so on. People caught in these situations have to look at all the details. Someone coming along now and building such an apartment would pick his own rent to put on the first time it was rented.

Mr. Emery: That does not help me very much.

The Acting Chairman: You never said when your buildings were built.

Mr. Emery: My buildings are post-1975; so I would not come under the 10 per cent return provisions.

Ms. Caplan: Post-1975 or pre-1975?

Mr. Emery: Not post; I am sorry. I get "post" and "pre" confused. They were built prior to 1975; in fact, they are very old buildings.

Ms. E. J. Smith: You may find there are other parts of the bill that will assist you.

Mr. Emery: I have not really discovered any. I still have not found an answer to my question.

Ms. E. J. Smith: Contrary to what people think normally, luxury apartments can be considered under the chronically depressed provision. We think of the poorer apartments because of the people we are concerned about, but actually if your luxury apartment were compared with another luxury apartment, it could meet the criteria.

The Acting Chairman: Thank you very much, Mr. Emery.

Mr. Emery: I do not have an answer to my question. I do not suppose anybody could--

The Acting Chairman: You might be able to ask advice from a member of this committee; but you might well be advised to check it out with a ministry official. Thank you so much.

Who do we have here? The Law Union of Ontario. I saw Mr. Gemmell here, and I see Mr. Reinhardt, and there is a brief before you.

LAW UNION OF ONTARIO

Mr. Gemmell: The Law Union of Ontario is a group of lawyers and legal workers who practise primarily in the area of what is loosely called poverty law. We act for poor people who cannot afford a lot of the normal rates charged in our profession.

Mr. Pierce: Which union do you belong to?

Mr. Gemmell: The Law Union of Ontario.

Mr. Reinhardt: We have another union, actually. It is called the Law Society of Upper Canada.

Interjection: It is very effective, as it turns out.

The Acting-Chairman: Calm down, please, committee members.

Mr. Gemmell: In terms of the Law Union of Ontario and its members who practise in the area of rent review, we have conducted literally hundreds and hundreds of rent review hearings over the past five years and acted for tens of thousands of tenants; so this brief comes out of our experience of dealing with the existing system and with the effect of this legislation as we see it affecting the clients we represent, the tenants of Ontario.

In any fair analysis of the proposed bill from the point of view of tenants, by and large the bill is a substantial weakening of rent controls. If you do a ground-by-ground analysis of how the landlord will justify rent increases under this bill, the net effect will be that tenants will face substantially higher rent increases under this new regime as opposed to what they face under the present Residential Tenancies Act.

The bill does not offer a whole bunch to tenants in return for the prospect of higher rent increases. In our view, there are a number of serious flaws with the proposed rent registry system and we will be reviewing that. The quid pro quo in terms of maintenance of housing standards, if you analyse it, is quite a vague provision and in the long run will be unlikely to have any significant impact on the quality of housing in Ontario. I indicate to you, for example, that in the city of Toronto there is quite a comprehensive housing standard provision. It is quite common for tenants to get work orders against their place. It is quite difficult to get landlords actually to comply with those work orders.

Perhaps I can briefly go through the brief item by item. I am sure you have heard many of the submissions in these areas before, but I would like to point out some of the areas that I think are most important, especially from the viewpoint of a tenant facing a landlord's rent review application and the issues that will arise compared to the present system.

Perhaps I can start right off the bat with the proposed maximum percentage increase. This is the first area where tenants will face higher rent increases than they do at present. As I understand it, they will be facing a guideline increase going from four per cent to about 5.7 per cent.

I have no real complaint with an index formula for that guideline. The problem is that the formula used is much too generous. If you are familiar with how buildings are financed, you will be aware that 50 per cent to 60 per cent of the revenue of a building goes towards paying the operating costs of the building. If you look at the building operating cost index that is proposed, the proposal of an increase of about two thirds of that building operating cost index will effectively cover the operating cost increases for a landlord. The additional two per cent proposed in that formula will do nothing more than increase the landlord's profit on the building. As such, it will not reflect the philosophy of the present Residential Tenancies Act, which is to pass costs through.

Interjection.

The Acting Chairman: It will be better if you hold your questions to the end, Ms. Caplan. He has a long brief.

Ms. Caplan: I just thought that--

The Acting Chairman: I disagree. Hold your questions. Forge ahead Mr. Gemmell.

Mr. Gemmell: In terms of operating costs in the second area, it is my view that the operating cost provision will also provide for higher rent increases for tenants at rent review hearings. The first problem is the operating cost allowance. It faces the same problem that the guideline increase formula faces. We have about two thirds of the building operating cost index being built into that. Again, we have the addition of the one per cent, which is not justifiable in terms of what the actual operating cost faced by the landlord would be.

The real problem in this area is the provision for extraordinary operating costs. It is my view that this is an extraordinary loophole for sophisticated landlords and their rent review consultants. I am concerned about the prospect of a landlord being able to pump up discretionary expense areas, particularly in the area of maintenance, and being able to go to the commission and say, "My maintenance has gone up by 20 per cent over last year as opposed to the four per cent allowed in the guideline and, as such, I want to claim for that."

By doing that, the prospect for the tenant is that the year after rent review the maintenance levels will return to their historic level. What will happen is that an artificial increase will have been built into the rental structure of the building. I can advise you that I have seen this done by landlords under the present system in a number of cases. It is a very simple thing for them to do and it is very hard for tenants to ferret out and convince a commissioner not to fall for it.

The other side of this extraordinary operating cost is that when there is an extraordinary decline in the operating cost, which can happen where the landlord does a major conversion of the heating system, there is no concomitant provision for a tenant to go back to the commission and say, "Look, the landlord has just converted to gas and we think he is now paying substantially less for heating than was allowed in the rental structure." There is no such provision for that.

17:00

This is a real "cannot lose" provision from the landlord's point of view, and I think it is one that is very much open to manipulation. Our proposal is that you just can this altogether, that you not allow it at all because of the dangers it entails. If the landlord is having problems in this area, the alternative may be to do a full-blown rent review with all costs being open to scrutiny by the commission.

In terms of capital expenditures, the net effect of the bill will be marginally higher rent increases arising from this provision under the new legislation. There is an express allowance for the landlord's management and administration with respect to capital expenditures, which I guess will be about five per cent. That will have a small effect. What the tenants hoped to get out of this was a really comprehensive cost no longer borne for capital expenditures.

As I understand it, the commission is starting to recognize this now. When the landlord goes back for a rent review, they are starting to take out

costs. The expected life of the costs has now come and gone. For example, you may have painting and decorating that occurred back in 1980. A five-year lifetime was allowed, and now in 1986 the landlord has come back and some commissioners have started taking that out of the rental structure.

The provision in the act is much weaker than that. There are three significant limitations with it. The big one is the August 1, 1985, limitation. It only applies to capital expenditures completed on or after August 1, 1985. This means tenants will not see the benefit of this provision for at least five years. Second, it only applies to applications where the landlord is claiming for replacement of the item. If the landlord does not come back and claim for the same item, even though the tenants have paid for it, it will not come out of the rental structure. The third limitation is that only 80 per cent of the amount allowed comes out. The other question is whether or not this includes the actual interest costs on the capital expenditure, which can often be a very significant portion of the rent pass-through from that.

Dealing with financing costs, this is the area where the bill holds out the most hope to tenants in so far as it provides an automatic review of financing costs by the minister in certain situations. That is very good. At present, a tenant would really have to wait for the landlord to go back to rent review and then make the argument that the commissioner ought to look back in time and take the old rent increases or financing costs out of the rental structure before passing on any new ones.

The real problem in this area is that August 1, 1985, cutoff. What will happen from the point of view of many tenants for whom we have acted is that they will be denied the benefit of the fall in interest rates that has occurred since the early 1980s. If you were a member back in the early 1980s and you have a large tenancy constituency, you will remember the anguished telephone calls you may have received from tenants who were facing 30 per cent and 40 per cent rent increases as a result of the landlord having to renegotiate a principal mortgage on the building.

Those interest rates, which were then sealed in for three or five years at the rate of anywhere from 17 per cent to 20 per cent, in some cases are now being renegotiated at much more favourable rates. This becomes a tremendous windfall for the landlord at this point, because the difference is a tremendous amount of profit to him.

The second issue is that the ministerial review is only triggered by a decline of two per cent or more in interest rates, but I gather that is being changed. I have been told it is being changed to one per cent, which is an improvement, I suppose.

Financial loss: This again loosens the controls in this area in a number of small areas. Probably the big area is that it now allows the landlord to claim interest on loans used to cover any financial losses. The main problem we have in this area is really a conceptual one, because these financial losses arise from the purchase of buildings. I am really surprised people will buy deliberately into substantial financial loss positions. The allowance of financial losses is doing nothing more than buttressing the price of rental units on the sale market.

In terms of the tenants' financial loss, they face very substantial rent increases, even if the increases are phased in over a number of years. The tenants see no benefit whatever from it. It does not result in improved

maintenance. In fact, they say it often results in poor maintenance. In the end, the previous landlord has made a good profit and the present landlord is putting up with a few years of financial loss with a view to making a profit in the future.

The provision for financial loss also ignores the fact that under the present system the landlord has a lot of built-in profit areas. The big one is that tenants pay both principal and interest on mortgages. Over a long period of time, the landlord will be able to build up his profit position in that way. Second, in any sale of the building, he profits by the capital gain accruing to it.

The big, bad area in this bill is chronically depressed rents. There is no concomitant benefit for tenants who pay chronically inflated rents to be able to do something about it. If this provision goes in, I think there will be a substantial long-term increase in a lot of units in Ontario.

Aside from the problem that it creates the notion of a guaranteed rate of return, you have to be realistic when you look at provisions like this. I believe the comment was made by Ms. Smith, pointing out that this will not apply just to units at the very bottom end of the rental scale, but it will apply to units toward the top end. The test is they have to look to the comparability of the rents in terms of the quality, location and type of units that are being covered.

In an area such as Riverdale or High Park, where there are a lot of old buildings with an ongoing pattern of conversion to luxury units, you will have landlords converting their units to so-called luxury accommodation by doing fairly superficial renovations. They will go to the commission to get a cost pass-through based on the renovations, which will not give them nearly what they hope to get. Then they will go back and say, "We have chronically depressed rents, because just up the street Mr. Jones is renting the same type of apartment for about 50 per cent more." As a result, you will have an immediate effect of a gradual increase in the rental structure in areas where these types of conversions are going on.

With regard to the general mechanisms of the marketplace, where you have construction of new housing in the neighbourhood, or the sale of existing housing and the creation of higher rents through financial loss or the conversion of other housing, you will find more and more units which you had not expected to fall within that definition of chronically depressed rents will do so and you will see a continuing, increasing spiral of rents as a result.

Similarly, if you look at the post-January 1, 1976, buildings, the rate of return is very generous. The net effect to tenants in those buildings, at least over the first few years, will be no controls on those buildings. The ceiling on what the landlord can charge will probably be more than what the market would normally charge for those buildings. The landlord will be able to charge what the market can bear for, I would expect, at least five years until there is some kind of adjustment.

17:10

If I can keep rolling along here, the rent registry provision is welcomed. It is something I know tenants have been after for years and I know it has been promised by at least two governments. The provisions themselves are disappointing. One of them, the major one, is that there is amnesty

created for illegal rent increases before August 1, 1985. All the landlord has to do is file a statement and he will gain that protection. That is a substantial problem; there are a great many illegal rent increases. I have seen the figure quoted at 50 per cent in the Metropolitan Toronto area. A lot of landlords will then thereby be able to have said they have beaten the system.

One thing we would like is for the landlord to file previous rents, ideally to go back to 1975, where the landlord has not been to rent review, so that the tenant will be able to establish what the proper lateral rent is.

Finally, there is a rather funny mistake in the rent registry provisions. If you recall how the system works, the landlord, according to various time limits, is to file the current rents of his units with the ministry, and if there is an outstanding rent review order in respect to the premises, the ministry will then fire up the computer and calculate the lawful rents.

The ministry then will notify the tenants as to whether they have 90 days or two years in which to apply, but will only tell them what the current rents are. We have the feeling that if the ministry knows what the lawful rent is, it should tell them in that notice to the tenants, to alert them as to whether or not they should make that application. I cannot see any real reason for that not being done.

As far as procedure is concerned, what I am really concerned about here is that effectively the bill is to drastically reduce the number of rent review hearings. There are really two provisions for that. One is these administrative reviews at the initial stage. The second is something you may not fully realize the impact of. Once the landlord gets an additional five per cent for financial loss or five per cent for economic loss or for equalization of rents, he can then register that with the rent registry and can charge it as of right without having to go back to rent review. There is a provision for adjustments in certain circumstances, but the net effect will be substantially fewer hearings and substantially less scrutiny of what is really going on in terms of the landlord's actual costs.

I like rent review hearings, not because I act for tenants, but because they are very important from the point of view of seeing what they do for my clients. It is a wonderful way for tenants in a building to get together and discuss common issues. It has been a tremendous help to tenants in organizing. Tenants have then gone on to deal with issues not only in their own buildings but in the neighbourhood around them, with great effect.

Quite frankly, we favour the retention of some kind of an initial level hearing, with a 30-day filing period being better than the current 15-day period.

That is a kind of 90-mile-an-hour review of our brief. We are here to answer questions.

Ms. E. J. Smith: Just to clarify a couple of things for our understanding, and of course Mr. Peters should wave his hand wildly if he thinks I am making any errors here, on your last point, there is no question that we envision fewer court-like cases and procedures. You may see it as a rallying point for tenants getting going and that sort of thing, but we see it as an advantage to tenants that they can get the information they need and, in many cases, resolve their problems around rent without having to go to a very

legalistic court-type situation and hire lawyers. So that is a difference in philosophy.

Mr. Gemmell: Rent review hearings are not anything like being in court. They are almost--

Ms. E. J. Smith: They are expensive for people who have to hire lawyers.

Mr. Gemmell: Yes.

Ms. E. J. Smith: That is the advantage to the tenants. We see it as a positive. I agree it is a point of view.

You mentioned that people should know what the legal rent is rather than the actual rent. I believe that is what they will be informed of. Is that right? They will be told the legal rent, and they must be told.

Mr. Gemmell: This is being changed.

Ms. E. J. Smith: I wanted to clarify that. It is one of the first things I checked when we first started thinking about it. They cannot get hit; they cannot think they are getting in at one rent, get in there a month and find that what the last person paid was not the legal rent. He must be told what can be charged.

Mr. Gemmell: What I am referring to is that the rent registry system is that once the landlord files, the commission sends a notice out to the tenant saying, "This is what your landlord says the current rent is," but what it does not tell the tenant in that notice, under the legislation as I read it, unless it has been changed, is, "We have calculated what the lawful rent of your unit is, and here is what it is."

Ms. E. J. Smith: Mr. Peters, would you like to tell us the exact process? I think the tenant does get all that information.

Mr. Peters: There are a number of issues in terms of the registry that should perhaps best be explored. The first one is that, where an order exists, the registry as developed will allow for a comparison to that order. If it is found that the rent is legal on the basis of the comparison to an order--we are not going behind an order, because the order establishes the legal maximum rent for that unit--if there is no basis for a difference, then obviously that is the legal rent. To the extent that we can calculate it, if there is a difference, it goes to a rent determination hearing to find out what the rent should be. The tenants would be notified of that, and a rent determination hearing would take place.

There is a question mark where there is no past experience with rent regulation. I assume that under the Residential Tenancies Act, if any tenant out there has not been to rent review, he has certainly had the option of filing an application and disputing a rent increase. We have undertaken to explore fully any evidence presented to the minister where there is evidence of illegality of rent. There are more ways of doing that than straight order comparison. There is a large population that has no history of rent regulation; they have never been to rent review. They are in no better position, I suppose, than anyone else to say whether that a rent is legal or illegal. We do not know.

Mr. Gemmell: Just for my own clarification, the ministry will then be ordering rent rebates even without the tenants applying?

Mr. Peters: No.

Mr. Laverty: No. Under subsection 59(4) the minister can initiate a proceeding, but there will have to be a determination on what the legal rent is. It is not a matter of our administratively determining the rent without the parties being able to bring forward their arguments and their evidence.

Mr. Gemmell: How will the tenant know about the ministry's--

Mr. Laverty: He will be a party to the proceedings.

Mr. Reinhardt: May I ask a question? When you refer to investigating under subsection 59(4), you are talking about a hearing, an inquiry?

Mr. Laverty: There will not necessarily be a hearing, because of course we are dealing with an administrative review. If there is an appeal of the order, that would be a hearing process, which would be done by the hearings board.

Mr. Reinhardt: The concern we have, and this is getting into the procedural question as well, is that in so many instances the only way the tenants really have an opportunity to figure out what is going on is by a hearing, where they have documentation in advance, they can check it out, they can find out what the landlord is claiming on the basis of a detailed list of current rents and so on. This type of information, which is now part of the regular rent review process, does provide an opportunity for the tenants to look into it prior to the hearing and then question the landlord on it in the hearing.

The commission does not always but can, of course, adduce further evidence from the landlord at that time. If it has documentation, it can ask for rental roll information. There is quite an opportunity under the current system to investigate it in any hearing that takes place, regardless of any triggering of previous orders. It depends upon the information the tenants have. Sometimes they spend a great deal of time getting that information and making that an issue in the hearing.

17:20

Our concern is that this is really not full disclosure to the tenants of what is happening until a hearing has been triggered somewhere. It might be hard to know whether you had a reason to be investigating it further if you were a tenant.

Mr. Laverty: Under this procedure, the tenant will have access to the information the landlord files. He will also have the opportunity to comment on any information that has transpired between the ministry and the landlord. The one big difference is that under this act the first-level review is not a hearing; that is, it is not governed under the Statutory Powers Procedure Act. However, if the tenant is disappointed at that, he always has the option of making an appeal and getting a Statutory Powers Procedure Act hearing. Under the existing legislation you get a Statutory Powers Procedure Act hearing whether you want one or not. Under the new legislation you will only get such a hearing if you want one.

Mr. Reinhardt: On that general principle point, it seems to me that is a very tricky business. If you look at the history, my experience of rent review from the old legislation, all the way back to 1976, is that the nitty-gritty happens in the hearing. Of course, the appeals idea here is slightly different, but the appeals never get you very far. By and large, appeals cannot possibly get you very far, because at that point the database is already created. It is only if there has been some really unusual error.

The idea of making the appeal the time when you get your first chance to investigate through the hearing process is to me a very risky business. That can present an awful lot of procedural problems for tenants in the long run. There will be a great inability of tenants, as Mr. Gemmell has indicated, to rally their forces or get involved in any meaningful way until a new rent has already been set. I hazard a guess there would be far less active involvement by tenants if you set up a procedure such as this.

Mr. Lavery: To correct a misconception you may have, subsection 99(3) states, "On the hearing of the appeal, the board shall hear any evidence that is relevant to the issues, whether or not the evidence was tendered or was available on the initial application."

If you are worried about the introduction of new evidence, the act does provide for such new evidence to be entered by either tenant or landlord.

Mr. E. J. Smith: There is one other point that I was going to make. You referred to the chronically depressed rents, the upper-priced apartments and so on. I point out, because I can think of instances in my own community, that you may tend to assume in your mind and your mental picture is that someone who is renting out a high-priced apartment is therefore a high-priced, well-to-do landlord and vice-versa, which is often the reverse of the case.

Therefore, if you look at the terms of reference of the chronically depressed, it is certainly there to give only minimum relief, you might say, to people who are really suffering. Although it is a high-priced apartment, the person suffering may not be wealthy. It is quite legitimate that if you are earning less than 10 per cent--one of the requirements--plus your 20 per cent below the market, and you are in financial trouble, even though yours is a luxury apartment, as a landlord you have a right to access to that particular clause of chronically depressed rents, which was what I was pointing out to this other gentleman. It may not apply to him, because he may not be in the under 10 per cent return, which will disqualify him.

Mr. Gemmell: Of course, part of the problem I have is that of the things I have learned in rent review hearings the one thing which is often peculiarly in the powers of a landlord is his ability to fiddle his financial structuring. I note, for example, that a lot of landlords who claim financial loss are not losing money. They have lent money to themselves through a non-arm's-length corporation and they are getting a return on a second or third mortgage that covers part of their equity in their return.

What I am concerned about when I look at provisions such as that is landlords fiddling their financial structure to be able to go to the commission and say, "Look, I am getting less than 10 per cent of my return on equity."

Ms. E. J. Smith: We would all worry about that; so let us hope there are plenty of regulations written in to prevent that kind of thing. I too would worry about that.

Mr. Grennell: The other thing is that the chronically depressed rent, even though I believe it is only two per cent per year and provided over a very long period of time, which may be on the order of five or six years, can result in quite substantial rent increases for tenants. Tenants who rent fairly high-priced apartments may do so not because they have a lot of money but because it may be the only size of housing appropriate to them or the only housing available.

Ms. E. J. Smith: That is right. I am not passing judgement. I am simply saying that the gentleman before you talked about luxury apartments.

Mr. Reinhardt: May I make one point? In further discussion of appeal procedures, if you look at subsection 99(1), issues on appeal, it says: "On the hearing of an appeal, the issues will be limited to those raised in the initial application"--it may also say "or set out in the legislation"; I am not sure whether that is an amendment--"unless the board, in accordance with the prescribed procedural and interpretative rules and policies, otherwise allows." That is exactly the kind of narrowing process I have been concerned about.

In the past, the disputed and additional facts and the grounds of appeal were often for tenants who figured things out at the second stage, an incredible handicap to any fair or full appeal. It seems to me the same problem will exist. You will catch things after the fact, after an administrative order.

Utilizing this system of appeal, it will be hard to open up the issues the way they should be in a full and fair hearing. That is the concern. If there is to be a hearing, unless the tenants have been completely sophisticated from the word go, they will find themselves down the road with an order already in place and without the ability to raise the right issues, because they did not raise them at the administrative level.

Mr. Cordiano: Does not subsection 99(3), the provision on evidence, deal with it?

Mr. Laverty: No, there is a difference. The earlier comment the deputy minister made was with respect to evidence, and I pointed out subsection 99(3). The deputant is now raising the question of issues. However, it might be relevant to point out that you could always advise a tenant client that you wanted a meeting under clause 29(1)(c) if you wished to explore the issue and you could approach the administrative review to suggest one might be useful.

The only difference between a meeting and a hearing is that we would not be governed by the formal procedure of the Statutory Powers Procedure Act, which has greatly complicated things for the average landlord and tenant, who do not understand such things, unlike people in the legal profession.

Mr. Reinhardt: The Statutory Powers Procedure Act is straightforward legislation. It was designed to be simple and uncomplicated. It is not, in fact, very complicated. The record of the proceeding is very simple, based upon documentation filed. In my experience, there has never been a problem of complexity with the Statutory Powers Procedure Act for tenants or landlords.

The difficulty has always been to pin down the landlord, to place him under oath and to make sure he is telling the truth. The commission tried to

get declarations on the documentation, which is now here--and I am glad it is here--that the information is accurate. It has always been a difficult task. It is not a problem of complexity; it is a problem of truth and falsehood. It is the concern we have that unless you have at least the minimum, which is the Statutory Powers Procedure Act, you will find a lot of things slipping through the cracks, a lot of documentation not substantiated except on paper and a lot of situations where the commission will be materially misled.

17:30

The Acting Chairman: From the chair, I have one question for you. Have you seen the Northrup study called Abnormally Low Rents: A Study of Landlords and Tenants, done at York University.

Mr. Reinhardt: I have not.

The Acting Chairman: It was done for the ministry and has just been tabled with us today. There is a supplemental report, dated September 1986, which indicates that, given the thresholds in section 88, the number of units in the province that would qualify for chronically depressed relief would be in the nature of two per cent or less of all rental units. Elsewhere in the documentation it suggests that about 25 per cent of the tenants in those units would have an affordability problem currently.

Mr. Peters: The figure is 28.5.

Mr. Gemmell: The only comment I have on that is while that may be the existing situation, by changing the characterization of a unit it may move from not falling within that category to falling within that category by way of luxury conversion, if you look at the key being the below 20 per cent of the market rent. That is one of my real concerns in that area, a concern that exists in the city of Toronto in the areas that are undergoing that kind of conversion.

Mr. Reinhardt: If I may respond to that as well, chronically depressed rent is something like rent equalization. In 1982, in the same legislation that dealt with the problem of the Cadillac-Fairview buildings, the government of the day got rid of equalization. That was an incredible relief to many of my clients.

It goes back to a basic concept. All legislation since 1976 has envisioned a system that would be predictable for both sides. If you rent a unit, you know the rent and you know that, if you are going to get a rent increase, it will come 90 days in advance of the anniversary date. You also know you are going to have 60 days' notice and you have a month to decide whether you want to move out. There is a predictability there.

There is another very important aspect of this. In our community we have many tenants who have been in buildings for many years. This is part of the process. They may have sold their business, retired or could not afford a condominium, so they rented. They live in a situation where their budget is very carefully planned. They consider their investment to be the fact that they moved into building X, Y or Z 10 years ago and started living there. They have been good tenants, they have taken care of their place and they have not caused their landlord any problems.

Then they are faced with the notion of equalization, which has nothing to do with them whatsoever. It has to do with them only in the sense that they made a decision to stick with a particular landlord or a particular building for a long period of time. Because they chose to do that, there were no illegal rent increases, no large escalation of the rent, while the unit down the hall may have changed hands every six months.

Those people ask me, "Why should I have to pay a rent based on these outside factors when I chose to move here?" Then they say: "If I were that person down the hall, under our system in a limited way I would have a recourse to the problem. I could investigate the rent schedule, if I wanted to go to the commission or I could, if I chose, say: 'Okay, fine by me. I have the money. I can afford it. I am going to move in now at this different rent.'"

Any kind of system that allows for the administrative equalization or raising of a rent, simply because of what the rent down the hall is, is telling those people: "Your investment is gone. You have nothing for all those years you have lived there." That is a big problem that this type of provision does not deal with.

Ms. Caplan: First of all--

The Acting Chairman: Just hang on; I will put you back on, but I am still asking questions.

Ms. Caplan: Do not put me off, because I--

The Acting Chairman: I was asking the question, actually, Mrs. Caplan.

A government-proposed amendment that you may not have seen creates a two-year window for this application under section 88, chronically depressed rent. It does not speak to the problem you were addressing, Mr. Reinhardt, but it would limit some of the "conversion up" problems you are talking about. How a tenant would know, though, whether he or she lived in a building that was about to be caught in this is anybody's guess.

Mr. Gemmell: There is the provision for registering with the rent registry these financial loss pass-throughs, the economic loss and the equalization, so the landlord can charge, as a right, the extra five per cent, two per cent or whatever it is.

One of the concerns may be for an unsophisticated tenant moving into premises such as that who may not be aware that his unit is subject to that type of increase. It may be a good idea to give some kind of notice to a tenant in that situation, because it is quite possible the tenant may move in at \$500 and then suddenly find the landlord can charge 12 per cent as a right for three or four years against him. It is just a thought.

The Acting Chairman: Actually, we have raised that question during the hearings, and I forget what the answer is. Mr. Peters, is there provision for recording any orders made by an administrator in the registry so a new tenant can discover to what kinds of increases he may be subject to?

Mr. Peters: Yes. In fact, there is a requirement--

Mr. Gemmell: I think section 89 is the one.

Mr. Peters: According to section 66, the phase-ins are recorded in the registry.

Mr. Gemmell: Yes. I am just thinking of notifying new tenants--

Mr. Lavery: Okay. The notification of new tenants is in section 19. They also could inquire of the registry, because section 19 requires the landlord to provide the information also.

Mr. Gemmell: It could be worded a little better, I suppose.

The Acting Chairman: You may want to suggest some wording to us when you have the time. Mrs. Caplan.

Ms. Caplan: Yes, I want to make several points. I was myself a tenant and a tenant organizer not so long ago. In that position, I found that, particularly over the past 10 years, there has been an increasing tension not only between landlords and tenants through the existing rent review process but also between tenant and tenant. We have heard this in the course of the hearings.

The equalization proposed in this legislation will not yield greater rent to the landlord. In fact, the equalization will be based upon the legal rent, and it is one way of catching those illegal rents that are out there. One of the tensions that was caused between the tenants was that tenants knew what other tenants were paying. They were asking, "Why is that person more than I am for the same unit?"

The equalization that is proposed in this legislation will not yield any additional dollars to the landlord. It will allow for a phase-in so that those tenants who are at the lower end will be protected, and it will allow for greater tenant protection against the illegal rents that have resulted from the lack of a registry to let them know. The registration will also allow the catching of many of those illegal rents that are out there now. The equalization will be based not on illegal rents but on legal rents.

The long-term tenant is the greatest protection a building will have, because you will be able to catch the existing illegal rents in the building by the calculations based on the occupancy date of that original tenant. I think that it is one of the better provisions of the bill, and it will afford the greatest amount of tenant protection by making possible the identification of existing illegal rents where there has not been a rent review process. Tenants with the longest tenure will be benefiting not only themselves but also the other tenants in their building when they have this registry to find out what the legal rent should be. I take issue with your argument on that.

17:40

With respect to the issue of tension, we have heard from tenants coming before us that where there is a difficulty with the neighbour next door or a dispute over loud noise, right now the landlord throws his hands up and says: "That is not my problem. That is a problem with the existing tenant." There is no one to advocate, and the good relationships that develop within a tenants' organization often break down because of the existing tensions between tenants.

I hope the removal of the adversarial and confrontational aspects of the relationship between landlord and tenant which exist under the present system will help the relationships between tenant and tenant and tenant and landlord.

I do not agree with the analysis that says the existing system encourages that kind of homogeneous socialization within a building. I have experienced the exact opposite, where you have tenants at each other's throats as well as at the throat of the landlord. Disputes erupt over the messing up of the halls and the fact that they cannot get the halls cleaned.

I noted a couple of points as you were going through your presentation. The building operating cost index reflects the fact that tenants will have greater protection in times of high inflation. If you recall, we first experienced the need for tenant protection because inflation was so high and tenants could not afford the inflationary pressures on their rent. We were seeing shortages of supply as well. The two per cent plus two thirds of the BOCI is to allow tenants protection in times of high inflation and inducement in times of low inflation such as exist now, so we will have a kind of maintenance.

Most of the complaints from my own constituents have been that the buildings are not maintained, that there is no one to advocate for them and that going to rent review is a long, intimidating and controversial process, where they only end up arguing with their fellow tenants and with the landlord. This will give them some assurance that the increase can be withheld by the minister and that they can have recourse if their buildings are not maintained.

This is the kind of legislation that has been brought about in the past 10 years by tenant activists who have recognized that there are severe problems, that the existing situation does not protect tenants and treat them fairly, nor does it treat landlords fairly. We have heard about the delicate balance of the existing legislation.

Looking at it from a legal viewpoint, I take great issue with the suggestion that the existing rent review system and the quasi-judicial system which pits tenant against tenant and tenant against landlord is beneficial to tenants in any way. I think tenants are poorly served by the existing system, and it does not help in the socialization of those buildings at all.

The Acting Chairman: Does Mr. Gemmell or Mr. Reinhardt care to respond to that?

Mr. Gemmell: A lot of your observations are not borne out by the experience I have had with the tenants for whom I act. In fact, I can point to a number of buildings in which the tenants have pointed out that, as a result of organizing, they have been able to get to grips with other issues in the building and that they have been able to talk to the landlord, not necessarily in a confrontational way but in an organized manner, to deal with problems.

There will always be problems in a building between tenant and tenant and tenant and landlord, and a rent review hearing often will not make the slightest bit of difference to that. If the tenant in 1201 plays the stereo too loudly, whether or not there is a rent review hearing will not make the slightest difference to it.

As far as the housing standard material is concerned, maintenance is one of the prime concerns for a lot of tenants. I do not think there is any doubt about that. It is one of the most frustrating things for tenants at a rent review hearing. They come wanting to know why the landlord has not repaired the falling plaster in their bathroom; they are embarrassed to take their friends up through the corridor; they are shocked to find the landlord is

claiming things that have absolutely no benefit to them with regard to their lives and the lifestyles they have in the building.

Unfortunately, I do not see that this legislation is really helping very much. There is the provision for the creation of the housing standards board, but if you look at the time limits--they are supposed to develop guidelines, but that may take four or five years to happen.

Ms. Caplan: No. As a matter of fact, the law committee is working on it now, and I understand the (inaudible) that information.

Mr. Gemmell: God bless, because I know people have been fighting to get housing standard bylaws in a number of municipalities within this geographic area and it has been hard.

Ms. Caplan: That is a key principle of this bill. That is one of the things that tenants will benefit from. In my own area, which has a high tenant population, they are saying very clearly, "We do not want to pay high, exorbitant rents, but we would be prepared to pay a little bit more if we could be assured that our buildings would be maintained and kept to a standard that we would be proud to live in."

The past 10 years have resulted in a massive deterioration of those buildings, with cockroach infestation and so on. People are now recognizing that they are willing as a group to perhaps pay slightly more, and we are talking slightly more--we are talking one per cent or 1.5 per cent based on the--

Mr. Gemmell: There is no guarantee in this legislation that money is going to go into maintenance rather than into the landlord's pocket.

Ms. Caplan: The guarantee in the legislation is that if it does not go into that, the minister can withhold any increase for the building. That is built into this bill and is the greatest protection that is here.

Mr. Gemmell: Let me give you a standard example that happens over and over again. The tenant lives in a building that was owned, say, by a large, happy insurance company which sold the building three or four years ago to someone who is going to make a lot of bucks out of it. They find that the building starts to deteriorate horribly; the ceilings start to fall in, but first of all, they lose any so-called frills in maintenance right off the bat.

Second, while maintenance gets done, there is a substantial delay in getting it done; it gets deferred, and it goes on like that for some time. It is very hard to try to create a housing standard that is going to deal with that kind of problem. For example, I have seen buildings where in effect, on the principle of giving the landlord a few extra bucks for maintenance so he will solve the problems the tenants are complaining of, rent review commissioners have done that and the money has not gone into maintenance.

It is often very hard for someone to call in and say, "Look, the plaster is falling in my bathroom." The inspector comes in and it is done then, but that solves it for one unit. There has been work-order legislation in the city of Toronto for many years. You get a work order and sometimes you get a bit of help on it, but a lot of times you do not.

There may be other ways of doing it; I perfectly agree with you that the legislation is certainly a good step in the right direction. I am not kidding

you when I say that. The faster those guidelines get in, the better; the harder a line the ministry takes on this, because you know there is that provision in the legislation for the minister to be able to waive that and that becomes a problem; that will cause real problems. It will depend on the minister at that point when they find that waiving is going on.

For example, you say, "We are going to grant the landlord a rent increase," or he will get his guideline increase, but that increase will go into a trust fund and will be administered for taking off those work orders as well.

Ms. Caplan: The point you make about the bill being a step in the right direction is a good one because--

The Acting Chairman: I do not think the deputant said the bill was a step in the right direction. I think he said the maintenance provision is--

Mr. Gemmell: The maintenance provisions are. I have a lot of problems with it elsewhere.

17:50

Ms. Caplan: I agree that maintenance has become a major issue for tenants, and in the whole area of tenant protection, that is a key area.

Mr. Gemmell: No doubt.

Ms. Caplan: The fact that the total increase can be withheld if that maintenance is not done to the provincial standard is a crucial principle of this bill.

Mr. Gemmell: If there is a will to administer it, that is the key.

Ms. Caplan: I believe there is.

The Acting Chairman: Mr. Reinhardt.

Mr. Reinhardt: I have to go, Mr. Chairman.

The Acting Chairman: We are back here in an hour and 10 minutes, everybody on the committee who still remains.

Mr. Reinhardt: I have to go and get my kids from the day care.

I want to say with respect to this issue of maintenance, you have to remember it is not unlike Bill 11. You are trying to key into things that are administered right now more or less by the municipalities. Historically, the commissions have not been able to deal with this; the courts have, through section 96, and they have relied on the housing standards in place in some municipalities but not in others.

This is a step in the right direction to the degree that it recognizes there has to be a standard for the province. However, it is not a step in the right direction if there are no teeth to it. The wording in section 93, "ongoing deliberate," to me is absolutely unenforceable. This is like the decrease in services problem and the ongoing pattern under the current legislation that, in my experience, has never been enforceable and has been a totally false hope for tenants. This "ongoing deliberate neglect" will

probably mean any landlord will have at least some loophole. It should not be in there at all. Those words should not be part of it.

If you look at section 96 of the Landlord and Tenant Act, it says the rights of the landlord under the Landlord and Tenant may not be exercised if he is in breach of his obligations under the act or any housing standards bylaw. It should be simply that the right to refuse to recognize capital expenditures and so on should be where the landlord is in breach of his obligations under the housing standards bylaw or under the standards you are establishing. There should not be any requirement to prove neglect is ongoing and deliberate. The whole idea of this legislation should be to boost the general standard of repair in buildings.

Regarding the discussion we have been having with Mrs. Caplan about rents or the question about chronically depressed and what is going to happen with the rent registry, I want to point out that we have limited time and that we were hoping to present as much as we had to say. Although you are supporting your bill, that is your business, but this is a hearing where we are trying to give as much information as we can to help you all.

This legislation should never require tenants to give up their common law right to collect illegal back rents owing to them. It seems to me absurd that you would take away from residential tenants a right you have never taken away from commercial tenants under the legislation in Ontario. If a commercial tenant has an illegally calculated rent, he can go back and get it; it is straight contract law.

By the way, tenants can also do that by suing in the ordinary courts. There is no reason why they should not if it is more than \$3,000. But here you are basically taking away that right and saying they can go back to collect illegal rents only at a certain point. That is a very big mistake. For any tenants who are functioning normally and trying to sort out their affairs, if they discover information about illegal rents, why can they not act on that? It does not make sense to me.

Those are my submissions. I have to go. Thanks very much. I do not know about Mr. Germell, but I have to go.

The Acting Chairman: I think actually we would all like to go. Just as you go, I want you to know I understand your guideline proposal is always two per cent better for tenants than the guideline in the bill.

Mr. Reinhardt: Yes.

The committee recessed at 5:55 p.m.

STANDING COMMITTEE ON RESOURCES DEVELOPMENT
RESIDENTIAL RENT REGULATION ACT
TUESDAY, SEPTEMBER 30, 1986
Evening Sitting

STANDING COMMITTEE ON RESOURCES DEVELOPMENT

CHAIRMAN: Laughren, F. (Nickel Belt NDP)

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Pierce, F. J. (Rainy River PC)

Reville, D. (Riverdale NDP)

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Taylor, J. A. (Prince Edward-Lennox PC)

Substitutions:

Caplan, E. (Oriole L) for Mr. Knight

Jackson, C. (Burlington South PC) for Mr. Stevenson

McKessock, R. (Grey L) for Mr. Epp

Clerk: Decker, T.

Staff:

Richmond, J. M., Research Officer, Legislative Research Service

Witnesses:

From the Ministry of Housing:

Peters, F. H., Executive Director, Rent Review Division

Laverty, P., Director, Rent Review Policy Branch

From the 2121 Tenant Association:

Tate, R., Vice-President

Alexander, D., Treasurer/Co-ordinator

Individual Presentations:

Hoff, J.

Tulk, B.

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON RESOURCES DEVELOPMENT

Tuesday, September 30, 1986

The committee resumed at 6:58 p.m. in room 228.

RESIDENTIAL RENT REGULATION ACT
(continued)

Consideration of Bill 51, An Act to provide for the Regulation of Rents charged for Rental Units in Residential Complexes.

The Acting Chairman (Mr. Reville): The committee will come to order. Are you Doris Alexander with the 2121 Tenant Association?

Ms. Alexander: I am Doris Alexander.

The Acting Chairman: I see. Did we not have somebody there by that name?

Mrs. Tate: I am Rita Tate with 2121.

The Acting Chairman: Are you associated with someone named Marilyn Gou? Do you know who that is?

Mrs. Tate: No.

The Acting Chairman: Your deputation is on my schedule for 7:30 p.m.

Mrs. Tate: That is right.

The Acting Chairman: We have someone at seven, but I do not know whether she is here. Why do you not begin, seeing you are here and the other woman is not?

2121 TENANT ASSOCIATION

Mrs. Tate: I am glad to begin. My name is Rita Tate. I represent the 2121 Tenant Association. I feel positive tonight.

The Acting Chairman: Good.

Mrs. Tate: I feel positive because this is an opportunity to speak to legislators about issues that concern us a great deal, which our members welcome very much.

At the outset, I would like to thank all of you here for your time and your attention. I know you have listened to many different deputations, and probably your heads are spinning with all the ramifications of the bill.

Our past experience with the rent review procedure has not been happy. I will talk more about that later, but for this reason it is great that I am not talking now to the Residential Tenancy Commission. This in itself is refreshing.

You have heard learned submissions given by lawyers and by representatives of very large umbrella groups. Ours is a medium-sized tenants'

association representing approximately 400 people. However, I honestly feel that what we have to say and what we feel is not unique in the sense that we speak with our friends and neighbours, people who live in apartment buildings large and small in the area. Bill 51, or Bill 11 for that matter, and all the issues of housing concern us very deeply. We probably are typical of what tenants feel.

Several people in our delegation mentioned to me as we were coming up, "Gee, this is the first time I have been in the parliament building." It again made me think of the wonder of the democratic process and the fact that we have an opportunity to speak about issues that concern us. It brings people closer to government, and this too is good. So we come with good intentions.

I would like to say at the outset that I believe the government of Ontario had good intentions when it tried to formulate a new policy regarding tenants and landlords. Bill 51 was born of good intentions. Unfortunately, it does not meet our needs.

It is a wide departure from the original agreement between the government and the New Democratic Party. At that time our spirits were very high, because we felt the main component of that agreement represented a measure of justice. I am talking about the guidelines; I am talking about more housing; I am talking about the rental registry and so forth.

In our opinion, the basic problem with Bill 51 is that it was based on the recommendations of people who had little experience and probably insufficient qualifications to legislate.

I would like to clarify my statement. The Rent Review Advisory Committee, the so-called RRAC, was set up by the government to represent tenants and landlords. I cannot speak for the landlords' side. I feel I can speak for the tenants' side and tell you frankly that the so-called--I underline "so-called"--tenants' representatives on RRAC, in our opinion, were not representatives of tenants. They were appointed by the government. They were not elected by any tenant body. They had no mandate to negotiate, and the government told them to negotiate. They could not give away anything that was not theirs. They had no right to give away any of the positive parts of legislation won by the tenants of Ontario through lobbying or whatever. I stress this point because time and again in the press the phrase "the tenant representatives on RRAC" appears. Those people were not our representatives. They spoke for themselves.

I have no hostility towards the tenants' representatives on RRAC, and I will explain further. They have an almost impossible task. They have been instructed to bargain, to negotiate, with the representatives of landlords in seclusion. By seclusion, I mean they were not allowed to consult with tenants or tenant groups. They were not allowed to consult with the very people they represented ostensibly.

Most of the recommendations they signed probably were signed under duress. They felt they had to agree to, let us say, a reduced guideline in exchange for possibly something else that might be forthcoming. They did the best they could, but they did not represent us. Therefore, we have Bill 51 based largely on--although it is not identical to--the recommendations of RRAC, and the bill is lacking. You have heard this before.

I would like to mention some of the points that concern us the most: the guideline, the compounding of rent increases, the rent registry and a few

other things. On the guideline itself, the jump from the four per cent, which was part of the original accord, to a minimum of 5.2 per cent or 5.8 per cent, which is likely to be the case in the next year, is an enormous jump. This is inflation. It is incredible inflation. The difference between four per cent and something like 5.9 per cent is almost 50 per cent. Wow! I say that because every percentage point means a lot to tenants who, by the nature of the fact that they live in apartments, by and large are not wealthy people. Most wealthy people can afford a home of their own. Most tenants cannot. Yet we are not here to beg for charity. We are not here to say, "Consider our concerns because we are poor." We are talking about what we consider to be justice.

No, we are not happy with the guideline. We believe an automatic four per cent is quite a lot. I was thinking in the office of how to demonstrate something that to us is self-evident, very simple, and yet I did not want to take anything for granted; so here are some toys and here is original rent.

19:10

Ms. E. J. Smith: You cannot be picked up by Hansard when you do that.

Mrs. Tate: Okay. Let us say that here is the original rent for an apartment unit. It is reasonable to assume that when you rent an apartment unit, your four walls and a roof on top, you can expect a minimum standard of maintenance. You are paying for it.

This is year one, any apartment. Here is year two. Here is the original rent. Here come costs; this can be maintenance, capital costs or all sorts of costs. Fine. This now becomes the basic rent for the subsequent year, and here is where the guideline is so terribly important, because our building blocks go higher and higher. I hope you get my point. This has now grown to that. This is basic, and this will grow and grow.

What happens is that a rent increase is charged on the total rent, and if this becomes the total rent package, which previously was this and two years hence becomes that--here it is four per cent or now 5.2 per cent, whatever you want to call it, on top of it--it snowballs. It becomes an awful lot of money to people who do not have a whole lot of money.

I am not speaking just of old age pensioners; a lot has been said about old age pensioners. You know what the Ontario minimum wage is. Of course, I am not suggesting that all tenants earn the minimum wage, but let us look at an average wage of \$6, \$7 or \$8 an hour and let us assume the person is fortunate, has full employment and works a 40-hour week. This person can indeed be poor because of housing costs today. Even 30 per cent of income paid for housing--and we should be so lucky--is an awful lot of money for such a person.

The government did take a step in Bill 51 to eliminate some of the compounding on the capital costs, and we appreciate it, but I believe about 20 per cent still remains. That is too much.

Another concern we have is the rent registry. Doris Alexander will speak on that further.

What the government also does not clarify in the bill, and there seems to be no guarantee, although a lot of talk has been going on, is whether we are going to get the affordable housing needed in this province. There really is no guarantee of this.

The government expresses concern about chronically depressed rents, which we choose to call affordable rents. We are deeply concerned about the chronic increases in the housing costs.

There is another thing for which we look to you for remedy. Here we do not have the full solution, but here is a problem, nevertheless. A lot of injustice has been perpetrated on tenants by the present rent review system. We have had unjust rent increases. We have had landlords granted more than they asked by rent review commissioners.

We have sat through hearings during which the landlords' evidence has been accepted as gospel truth. The tenants' evidence was often not admissible or not on point. Tenants were prevented from speaking at a rent review hearing which was held, ostensibly, for the benefit of tenants. Some of these hearings have at times resembled the Scopes monkey trial. This is why it is great to speak to you people tonight because at least I know you understand and you are trying to come up with some solution.

We have had a rent review hearing not too long ago, during which we, the tenants, were not allowed to speak. Subsequently, we had an award, which got some publicity in the press, in which the rent review commissioner said, among other outrageous things, that if the landlord chose to paint the lobby in 14 carat gold we would have to pay for it. I have this award. There are a lot more shocking things in it.

The language of the award was incredibly prejudicial. There were all kinds of gratuitous remarks which did not even pertain to the hearing or to the merits at hand. What disturbs us now very much--we appealed this award, of course--is that the Minister of Housing somehow found it necessary publicly to exonerate the commissioner, knowing full well that the case is under appeal. This is a sub judice situation. The minister said: "The commissioner meant well and I have full confidence in him. He is fully qualified and fine, and he will not use those words again."

19:20

I cringe with fear, because even though the commissioner may not use those words again, the prejudice remains, his motivation remains, and we are at the mercy of this type of system. We do not like it one bit. You can help.

There is some good news in Bill 51. The government proposes to abolish the Residential Tenancy Commission as it now stands. This is good. Under the proposed new system, so-called administrative review will be the first level. This gives us some concern because under the administrative review there appears to be no room for public input. There is room for public input at the second stage, that is, if either party, the landlord or the tenant, appeals a decision. Yes, then there is room for public input.

We feel it would serve justice better if there were public input at the very beginning, if people could state their case and maybe give additional oral evidence, because you cannot cross-examine a piece of paper. An individual might provide clarification or additional information, or say sincerely, "I do not know, but maybe Mr. So-and-So or Miss So-and-So can help to clarify it."

There is a system, well proven in this province and across the country, of arbitration boards. It works quite well in labour-management relations. I bring this up because there you sometimes also have an adversarial situation,

management on one side and labour on the other side, and sometimes it looks as though never the twain shall meet. But meet they do, and most of the time they co-operate. If there is a problem that cannot be resolved, management and labour each appoint a representative to a three-person board. Those two people agree on a chairperson, and away they go.

It really could work in rent review disputes if the landlord appointed a representative, if the tenants appointed their representative and if those two representatives got themselves an impartial chairperson. Then both sides would be truly and equally represented. You may want to look at it. It is just a suggestion. At least it would be representative and it would not eliminate input from either side.

You know by now, after listening to tenants' groups and even landlords' groups, that there is some dissatisfaction with Bill 51. The nice thing is that this piece of proposed legislation is not cast in stone. It may indeed be your working paper. You can throw it out. You can amend it. You may want to make it work. We hope you make it work by incorporating the kinds of changes that will meet people's concerns. We wish you energy, patience and wisdom. Thank you very much for hearing us out.

The Acting Chairman: Thank you, Mrs. Tate.

Mrs. Tate: Doris Alexander would like to speak on the rent registry.

The Acting Chairman: You are with the same deputation, are you not?

Ms. Alexander: Yes.

The Acting-Chairman: Will you come forward, please. May I remind you that you have used up most of your half hour--

Mrs. Tate: Forgive me.

The Acting Chairman: --so if you want to have time for questions, try to be as brief as you can.

Ms. Alexander: My brief will be short.

My name is Doris Alexander and I am from the 2121 Tenant Association executive in north Toronto. On behalf of our members, I would like to convey to the committee our deep concern about the proposed rent registry under Bill 51.

First, I want to emphasize that we are happy to have a rent registry. The concern we have is the procedural aspect of this proposal. We understand that our tenants will be notified by mail about their registered rents, and it will be up to individual tenants to find out about the legality of the rent and to take appropriate action. This is a problem, because in my neighbourhood the majority of tenants are the elderly, many in poor health, senior citizens, widows and single women. They do not understand legalities and procedures. Their only response to high rent increases is despair. People worry about the future, where it will end, and some just cry. These tenants would not challenge anybody, least of all landlords. Because of this situation, illegal rents will remain undetected and, within a span of time, legalized.

Some landlords will compare their rents with higher rents in the area. These rents could be illegal and landlords could charge more in accordance

with the chronically depressed rent provision under Bill 51. This fact will trigger a chain reaction for others to follow and it will destabilize an already fragile and shrinking affordable housing market. Affordable housing will be lost.

Please consider all these problems in making your final decision on Bill 51 and do not forget the human and social importance of shelter to people's happiness and wellbeing. Shelter is not a luxury or privilege. Shelter is a necessity. Thank you for giving us this opportunity to make this presentation.

Ms. E. J. Smith: Thank you both for the excellent presentations, which I am sure we all appreciate.

I will start by saying I think we all recognize both the imperfections of the system that was put in place and the imperfections of what existed previously and we fully recognize that everything will not be corrected in one year or in one bill. Therefore, one of the important things is the intention and the fact that built into the bill is an ongoing review and improvement of the process.

It was not part of the minister's decision to put together landlords and tenants, but he was within a time frame which was already difficult. As you can see, we are sitting here in 1986 and we are ruling on rents that go back to 1985. Some day in the future--and I will not say how long--I think we will find a better way to get landlords' representatives and tenants' representatives, but I hope you agree that his concept of getting people to talk together and getting representatives as best they could was a step in the right direction. Next will be the process to say who represents them and why.

19:30

Ms. Alexander: I would like to point out what I think about this. Communication, the exchange of views and consultation, is a wonderful idea and I am all for it. However, if clause 80(1)(a) with respect to chronically depressed rent becomes law, affordable housing will be lost and that will be the key factor. We can consult for ever, but affordable housing will be lost. The only housing that will remain on the market will be high-cost, luxury, unaffordable housing. How can you talk about the forces of the market regulating the housing situation? We will have only one kind of housing to offer and people will not have an alternative.

Ms. E. J. Smith: This is it. I fully recognize that, and you must understand that there is not one of us here who deceives himself into thinking that Bill 51 is a bill to resolve the issue of affordable housing. We have a policy on assured housing that addresses affordability. This bill addresses only a very limited portion, but we view with interest and take very seriously the concerns about affordability. We will be looking at them not only in this bill, but also in the whole housing policy, which deals in so many ways with affordability. We cannot address affordability in this one bill, because in it we are addressing the commercial market. As you have pointed out, addressing the commercial market cannot address the whole question of affordability in our society.

Recognizing that, I feel very strongly that any suggestion that people are working under duress in our meetings of landlords and tenants could be taken in two ways. You have made the comparison of union and management and I have made it a couple of times too. If duress is defined as a bit of strain, that is what is good about two people sitting down together. If a husband and

wife sit down under duress, they may accomplish a good deal, as long as duress is understood to be duress on both sides and both of them are struggling towards a happy middle ground. I think we all would want to make sure the duress was on both sides.

I am glad to hear your views. I am interested in an exchange.

Mrs. Tate: We are probably talking about two different things when we talk about duress. There are two cases of duress. I said that members of the Rent Review Advisory Committee were made to work under duress because of the structure they were put in by the government and because of their inability to consult with the people they were supposed to represent. This is one form of duress.

Ms. E. J. Smith: This was the system that existed for landlords. It was an imperfect system.

Mrs. Tate: It was definitely an imperfect system, which gave us an imperfect piece of legislation and which we are trying now to alter before we are all saddled with it.

The second part of duress is the relationship between tenants and landlords. It is true that the interests of tenants and landlords seldom coincide. We accept that.

Ms. E. J. Smith: Right.

Mrs. Tate: It does not mean we have to have a war, but their interests do not coincide. By and large, landlords are wealthier than tenants.

Ms. E. J. Smith: In most cases.

Mrs. Tate: By and large, tenants try to scrape up the money to keep some kind of roof over their heads. This is true. It is not an exaggeration.

Most landlords wonder how to invest their money and how to make more money. There are things in the proposed legislation that really rile me, such as the whole business of trying to legislate guaranteed profits to landlords, forgetting the fact that the property itself appreciates in value. Land value has skyrocketed; the value of buildings has skyrocketed. The property appreciates in value. Landlords are getting richer and tenants are getting poorer.

Ms. E. J. Smith: It is interesting. I think Ms. Caplan will be interested. She is a Toronto person who has represented tenants and so on. I am from London. We have heard from very excellent tenants' representatives, such as yourself, here in Toronto. In London, the tenants are almost unformed into a group. Other than the Rent Review Advisory Committee representative, no one came forward and spoke on behalf of tenants.

When we go out in other areas, we are constantly told that we see things only through the eyes of Toronto, the big-time landlords and the small tenants. We had countless delegations in front of us, whether they have been validated or not; ethnic people who speak less sophisticated language than the Toronto tenants' associations. I am not knocking sophistication--we need your sophistication--but we do get these ethnic landlords who assure us they are caught in the trap; their retirement money is invested in properties where people who now are earning way more than the landlords are will not vacate

because they are getting such good deals. I believe some of this is true for the smaller communities and the smaller landlords.

Mrs. Tate: It may well be true, but since you opened up the subject, I must tell you something that perhaps you do not know. This is a true case. A landlord has taken out a mortgage on a building that has been fully paid for. The landlord and the part-owners of the building happen to be millionaires. Fine.

The landlord took out a mortgage on the building at 18.5 per cent--this goes back some time when interest rates were high--and promptly attempted to have the tenants pay the interest on that mortgage. The tenants said: "Wait a minute. The building is fully paid for. You do not need the money for the building. You want us to pay 18.5 per cent interest on a \$700,000 or \$800,000 loan."

Finally, the landlord was pressed: "Why do you need this money? Why do you want the tenants to pay the interest on this money?" The owners of the building decided they would like a little more security in their old age. They borrowed the money and decided to invest it to provide additional security for the owners of the building. They wanted the tenants to pay the interest on that. How much further towards expenses must the tenants of this province subsidize the landlords?

Ms. E. J. Smith: You have fallen back on your wealthy landlord, and I am discussing the people who have appeared in front of us, whether they are honest or not, who are not wealthy. We went to Thunder Bay, where they cannot charge the allowed rent because the rents are so cheap. Once again, everybody says we are judging other places by Toronto, and we say we are trying to bring about a provincial bill that allows for all situations.

Perhaps there are not enough rules and regulations, and perhaps you want safeguards, which we should be looking at, so you are not gouged by your wealthy landlord. The bill has also to encompass individuals we have seen, ethnic people who used their spare time and bodies, purchased material and built small, walk-up apartments of six units, the biggest amount of rental units outside Toronto. It is a different world outside Toronto.

19:40

Mrs. Tate: I cannot speak on behalf of people in other cities, and no doubt you have more intensive knowledge on that subject.

Ms. E. J. Smith: No, but the bill has to address that.

Mrs. Tate: What you are saying to me now underlines the complexity of the situation and underlines the fact that it is utterly foolhardy to try to ram any piece of legislation through the House when you think of how much is involved. It must be studied, amended and examined with a fine-toothed comb under a magnifying glass, which is why I wish you patience.

The Acting Chairman: Let me assure you from the chair that there is no ramming going on here. We have been at this for how long?

Mr. Jackson: We have just started.

Ms. E. J. Smith: Can I ask you one question on this ramming through or holding back? We are back now to passing something that relates to events

in July 1985. I think the pressure is there to do something rather than to do nothing. Do you really consider that the bill should be delayed and the old bill, which leaves everything from 1975 on out of control--do you think we should be delaying? Do you really believe that?

Mrs. Tate: To answer your question, I think the bill need not be taken as a whole package. I think certain facets of the bill can be implemented sooner than others. I can see no reason that the bill cannot be subdivided into separate bits of legislation and some implemented sooner than others. First we need a rent review.

Ms. E. J. Smith: My time is up.

The Acting Chairman: Thank you. We have tried to be generous.

Ms. E. J. Smith: You have been more than generous.

Mr. Jackson: Are you aware of the view of the Federation of Metro Tenants' Associations that this bill has the net effect of increasing rents, on average, more than under the old system? Do you support that contention?

Mrs. Tate: Yes, I do.

Mr. Jackson: Okay. Given that we have no significant evidence of increased housing stock, I want to go back to your point about the affordability problem, because Ms. Smith could not speak for me when she said we all recognize that this bill does not and should not address those issues. I am not prepared to accept that, and I am sure there are others here who are not prepared to accept that either.

Can you advise me, if you agree that some of the builders have indicated they will not run out and be seeking building permits under this legislation and that they will still adopt a wait-and-see attitude, given that rents will go up, that the affordability problem will become greater than it already is?

Mrs. Tate: Forgive me, I am not trying to evade your question. One thing puzzles me. Up until now, new buildings have been exempt from rent review, and this has been for quite a number of years.

Mr. Jackson: For 10 years.

Mrs. Tate: Yes, 10 years. There was no building. Developers, large and small, could have built any number of apartment buildings--I am not talking about the luxury apartments that went up--and those buildings would have been totally safe from rent review. They did not build.

Mr. Jackson: Do you know why?

Mrs. Tate: I do not know why, but they obviously found other ways to invest their money. Also, we know about the law of supply and demand. We know that if you withhold a commodity from the open market, the price is bound to go up. I hate to compare it with the kind of obscenity that is going on worldwide, where countries are burning food, pouring milk into the fields and burning grain to keep the prices up.

Mr. Jackson: Surely you do not believe this is some sort of conspiracy on the part of landlords not to build.

Mrs. Tate: Not necessarily.

Mr. Jackson: No. It is very simple: It is not profitable to build or else they would build. I find very few people who will argue with that point, that it is not profitable for landlords to build or else they would. The other thing is that interest rates started to go up and it became absolutely impossible because they formed part of the unit costs.

The third contributing factor--and pardon me for assisting you with this, because I want to get to shelter allowances very quickly--is if the unit cost is \$60,000, that translates into a monthly rent. Let us say a similar building has been on the market for some time and has been accommodating tenants; the market rent in that building is \$450. But if to build new across the street and break even the landlord has to charge \$750, he will have a hard time finding tenants. That is basically the reason, because we created two prices. This bill tries to correct that, and it will not correct it overnight. But you will move closer to one market rent. It may take five or six years to do that.

Do you appreciate that concept?

Mrs. Tate: I grant you the possibility, because I got this in the mail today in my office, Building for Tomorrow, and I have not read it yet. I scanned through it and I thought, "Fine, great, the ministry is trying to stimulate housing." Wonderful. We are all for it. But we as tenants feel we have paid enough.

Mr. Jackson: That brings me to my question. I have asked it several times. Given the implications of this bill and the impact it will have on the affordability question, do you not feel this committee should look responsibly into the area of shelter allowances for our single-income mothers, for seniors and for other groups?

Mrs. Tate: No, I do not. I definitely do not. I do not think we should talk about allowances or subsidies, special cases within the framework of this bill. I do not think we should try to mix the job of a welfare department into the housing ministry, because we are not talking welfare.

Mr. Jackson: I object to your calling it welfare. It is not welfare. Citizens have a right to affordable housing. They have the dignity of affordable housing and they do not get it.

Mrs. Tate: Dignity. As soon as we talk shelter allowances, we are talking means tests, because surely you would not grant an allowance to someone who does not need it.

Mr. Jackson: We are doing it now.

Mrs. Tate: The economic circumstances do not warrant it. We once had a municipal politician who told us, "Those of you who are objecting to a high rent increase, if you speak to me privately, I will try to get you into senior citizens' housing." What he did was add insult to injury, because those people did not want to go into senior citizen housing. They were not resigning from life. They were willing to pay a reasonable rent. They did not want to be sent away into a ghetto, into a leper colony or what have you. They wanted to stay within the community and they had a right to stay within the community.

Mr. Jackson: By your own definition, you are referring to a reasonable rent.

Mrs. Tate: Yes.

Mr. Jackson: A reasonable rent for you and a reasonable rent for somebody else in the building might be two different rents. That is the thing we are struggling with. If we do not start dealing with the problems of affordability soon, they are only going to get worse. That means people are going to fall between the stools; they are not going to be covered. We cannot build fast enough. The federal government has left it to the province. The province now is leaving it to the municipalities in some respects to come up with the stock we need. Where does the solution lie?

Mrs. Tate: I do not want to sound ungrateful. I appreciate your stress on the affordability. But I suggest the government stimulate the building of low-cost housing. Wonderful. We need it; we want it. This low-cost housing will be available to whomever wants it and needs it.

19:50

Mr. Jackson: How can we determine their need if we are not going to do a means test?

Mrs. Tate: Actually, you will find that this would probably be quite simple.

Mr. Jackson: I am interested in hearing how.

Mrs. Tate: I will tell you how. There are certain people who get the minimum wage; let us say they get \$5 or \$6 per hour. If this is a person's only income and that person has one or two children, bingo, that person cannot afford any more.

I had some contact with people in public housing in the Flemingdon Park-Don Mills area and there was a lot of unpleasantness there. Dennis Timbrell, the member of the Legislature, tried the best he could to get some low-income people into subsidized housing in Flemingdon Park. These people did not want to go through a means test, because the means test was a humiliation. These people were humiliated enough by life and so forth. They were given a document--I cannot remember what it was; you will have to ask Dennis about it--to sign that said: "You can contact my employer or whomever. This is how much money I get. These are my earnings."

The situation was assessed on an individual basis, leaving the head of the family and his wife and children some dignity. They went into subsidized housing. The beauty of this was that the Flemingdon Park area did not consist only of people who were down and out; the housing was mixed. There were middle-income people and low-income people. By all means build low-cost housing. We need it desperately and you said it very well.

Getting back to the issue at hand, Bill 51, we are talking about the fact that if our rents continue to escalate at the rate at which they have been escalating, all of us will be candidates for low-cost housing because that will be all we will be able to afford. Surely nobody wants that.

Ms. Caplan: Are you aware that the committee has had tabled before it a study by York University on the chronically depressed rent issue? It pointed out that in fact only between one and two per cent of all the buildings in Ontario would qualify under that provision.

Mrs. Tate: That is very interesting. I did not know the percentage.

Ms. Caplan: Between one and two per cent would meet the three criteria.

Ms. Alexander: It is interesting. As I understand the rationale, based on some observations, chronically depressed rents--they call it affordable housing--are caused by the low or, in some cases, zero financial costs to landlords of 20- to 30-year-old stock. That is what makes it profitable, and the landlords enjoy healthy profits because of it.

Ms. Caplan: If they are experiencing a profit, they would not qualify for chronically depressed rent regardless of the age of the building. It is important to know that.

Ms. Alexander: If he makes 10 per cent less profit on his equity, he can claim depressed rent. It is something I disagree with. If he is experiencing hardship as it is, why did he not apply to rent review? We all know they have granted very generous rent increases.

Ms. Caplan: I am pleased to have the opportunity to explain some of the provisions of the bill, because there are some differences people do not understand. It is important to know the provision of the 10 per cent return on equity applies only to those buildings built after 1975. In the pre-1976 buildings--those are the older buildings, the ones built before 1976--the return-on-equity provision does not apply.

Ms. Alexander: But it is not written in section 88.

Interjection.

Ms. Alexander: Maybe, yes.

Ms. Caplan: It is, and the ministry people can clarify that for you. Dr. Laverty, would you clarify that for the deputant?

Mr. Laverty: What we have here are two separate provisions that one has to keep clear. The 10 per cent rate-of-return provisions in section 77 are awarded on those buildings built since 1975. However, in section 88 there is a different provision, which governs the qualification of an older building for chronically depressed rent status, and the 10 per cent rate of return is one of the three tests which must be applied.

Ms. Caplan: There are two other provisions as well.

Mr. Laverty: That is correct. One is 20 per cent rent depression, and the building has to have been held continuously since November, 1982.

Ms. Alexander: As I mentioned in my brief, if a landlord decides to compare rents in his neighbourhood for the same apartment unit, he will come to the conclusion that he charges 20 per cent less, and that would be an excuse for a rent increase. But we all realize many rents are illegal. That is what may happen. He will compare his rent, which is legal, because in affordable housing they have legal rents due to the integrity of the landlord or the allegiance of the tenants. He will start to compare with illegal rents and the board will not agree.

Ms. Caplan: It is important to clarify that legal rents will be established which can only be compared with legal rents. They will not be able to be compared with illegal rents. I think it is important to understand also what is required in order to qualify--and that is why the study was done. It shows that it is only one to two per cent of the buildings affected, because they must meet all three of the criteria to qualify.

In other words, it is not enough that your rent is 20 per cent less. It is not enough that you have owned the building since 1982. You must also be able to show you have not achieved a fair rate of return of 10 per cent on equity. That figure was arrived at because if a person takes his money and puts it into a Treasury bill, a guaranteed investment certificate or something like that, that is a reasonable rate of return on an investment. They must show all three.

In the pre-1976 buildings, it is not enough that you have not had a fair rate of return. You must also have owned the building since before 1982 and you must also be able to show--in fact only one to two per cent of all the units in all the buildings in Ontario will qualify for that provision. I just wanted to point that out to you.

Ms. Alexander: Yes.

Ms. Caplan: I want to discuss as well and ask some questions on--

The Acting Chairman: We are half an hour behind.

Ms. Alexander: I want to talk about legal.

Ms. Caplan: Yes.

Ms. Alexander: As of August 1, 1985, legal?

The Acting Chairman: Yes, but they say--

Ms. Alexander: So what happens from 1976? We are already talking about very high rents as of August 1985. Basically, he will compare with something that is not the perfect.

Ms. Caplan: I think that is where the rent registry provision is so important to tenant protection. The difficulty you have now is that there is no way of knowing, because there is no rent registry, where you have illegal rents. Tenants have been vulnerable because they do not know when they move into an apartment whether they are paying a legal rent or not. By registering it within a period of time during which each tenant will be notified, we will assure people in the building. The minister had a study which showed tenants across this province should save somewhere between \$21 million and \$45 million by stopping illegal rents. By having the registry, I am sure you will agree, tenants will be able to find out what the legal rents are, and in those cases where the rents are illegal, they will be rolled back.

20:00

Ms. Alexander: Rolled back to 1975?

Ms. Caplan: It is important to discuss why that date was chosen. If you will recall, because of the status quo, with the old bill, the old rent

control and rent review system, the difficulty was that during a specific period of time, between 1980 and 1985, many buildings were sold. It was because of the sale of those buildings that rents were increased as one person sold his building and a new person purchased it, mortgaged it and passed on those costs to the tenants.

It is very difficult, unless there was a rent review hearing, to go back to a landlord who owned that building beforehand to collect those rents. That date was chosen because at least there would be an opportunity to stop illegal increases without trying to get into expensive and lengthy court battles for tenants to try to collect from a person who owned the building several years before and does not own it any more.

It is not perfect. You have heard Ms. Smith say it would be ideal if we could go back, say, to 1976, when all of this began. But with the sale of buildings over that period of time, surely you will agree about the costs of trying to go back and collect those rents and the time and the energy, and not only that but the expense to tenants.

You made one comment on which I wanted to ask you a question.

The Acting Chairman: Did the witness say she agreed with you or not?

Ms. Alexander: No. I still believe 1975. I do not think the little poor lady or widow or a single mother should pay illegal rents and then be unable to claim her money back. It is not ethical; it is not fair.

Ms. Caplan: The question I have is that you said you were concerned with the provision that said the tenants would have to object to the notification of what the legal rent was going to be. If the tenant does not take responsibility for notifying the ministry officials that he does not think this is an appropriate legal rent--most people in the building know what their neighbours are paying or discuss it--

Mrs. Tate: Here is the problem, Ms. Caplan.

Ms. Caplan: Who should do that? If the tenant does not have any responsibility, can you imagine what it would--

Ms. Alexander: Have I mentioned that we have many sick people? They are old, they are very sick, they do not know, they cry. This is the situation.

Ms. Caplan: How would you suggest--

Ms. Alexander: Is it correct how many wanted to come and they could not because they cannot walk?

Ms. Caplan: How would you suggest it be done? Who should take the responsibility for saying we--

Ms. Alexander: The minister should have to call tenants, and when a landlord submits rent register trends, they should not be certified just because he submitted them; he should submit them with proof, files and documentation.

Ms. Caplan: He would have to. The provision is that when the landlord submits the legal rent, he must submit documentation. The tenants are then notified. If they feel the rent is not legal and if they have any

evidence, whether it be from discussions with a neighbour in the building or from papers from a rent hearing--and here is where long-term tenants in the building will be very helpful because they will then help to establish it; so tenants should be talking to each other about what the rents are.

If the tenant does not take responsibility for that, my concern is about what it would cost all the tenants through their taxes if we had bureaucrats going out to each building, to each apartment to try to figure out what the legal rent should be. Think of the cost of doing it that way. Surely the tenants have some responsibility for letting us know when they think the rent is illegal. I know people would like the government to help and to do what it can, and government should help; but certainly we cannot expect to hire an army of bureaucrats to check up on illegal rents. Tenants have to take some responsibility to help.

Ms. Alexander: But what can the senior citizen, the sick and the woman--

Ms. Caplan: Maybe that is something the tenants' association could help with.

Ms. Alexander: She is afraid of the landlord. She would not take her problem there.

Ms. Caplan: Do you not think the tenants' association could help?

Mrs. Tate: Very few buildings have a tenants' association. We are fortunate we have an association. It was formed almost overnight, thanks to the landlord, but as you well know, most buildings have no associations. Those people are helpless and not really aware of what their government, and I mean their government, can do for them. Maybe some education is needed. Believe me when I tell you there are people who are terrified of eviction if they form tenants' associations.

Ms. Caplan: That is a very good point and I believe--let me check with the ministry people. Is there not an education provision in this bill to help tenants--

Mrs. Tate: Yes. It is essential.

Ms. Caplan: --to understand what their rights are? That is the part of the bill.

Mrs. Tate: This is exactly the kind of work you asked me about before that the Federation of Metro Tenants' Associations is doing. It is good and important work and it needs to be subsidized.

Mr. Jackson: Two million dollars worth of media advertising costs would be a big help.

Mrs. Tate: Can we see the commercials before they go on?

The Acting Chairman: You can be in them.

Mrs. Tate: Good.

Ms. Caplan: It is essential that tenants be made aware of their rights.

Mrs. Tate: Tenants are terrified of the landlords. Also, you will find a wide variety of rents. The landlord will say: "You are paying more because you have another closet, or a smaller balcony or a larger balcony. If you dare to tell your neighbour, I will increase your rent, if you are paying less than your neighbour."

Ms. Caplan: But they will not have to tell their neighbour. All they will have to do is let the ministry know and the ministry can check it out.

Mrs. Tate: Lovely. As long as they tell the ministry the truth.

I would like to add one point there. We are talking about legal rents, but the legality sometimes could be stretched. Does "legal" mean what the landlord happens to report in year one as the rent, or does it mean what he is really entitled to charge? Please let us keep in mind that many of the so-called legal rents today have a basis of gross injustice. Those rents were ordered through highly unjust, bordering on illegal, procedures. We are stuck with that and we are looking for remedies.

Ms. Caplan: The definition of legal rent is important. Maybe the ministry people can help us out with the specific meaning of legal rent.

Mr. Peters: Perhaps the best way to answer the question is to walk through the process very briefly. The act requires that landlords register with the rent registry the rent actually charged as of July 1, 1985. That has to be the actual rent charged, but it is not necessarily a legal rent. Then that rent has to be tested. How is it tested?

We are in the process of going back and finding every rent review order issued and putting it in a computer system. The assumption, which I understand you may have some questions about, is that the order issued by the Residential Tenancy Commission establishes a legal rent. That rent in July would be compared backwards to the order, because we know what the guideline was. If there is no difference, it is deemed to be a legal rent. If there is a difference, the act requires the minister to investigate the rent and; if necessary, order a rebate and a rollback.

Ms. Caplan: Automatically.

Mrs. Tate: There are not many buildings, of course, which have not gone through rent review.

Mr. Peters: Approximately 450,000 units have a rent review history. That number will be in the registry. If you assume there are buildings that have no rent review history--and, quite honestly, I do not know--if there is some suspicion that there are illegalities, they will be investigated. If there has been a practice of eviction and so on, if there is a wide variation in the rent structure, those situations will be investigated.

20:10

Mrs. Tate: There is provision mentioned in the act under the rent registry chapter heading about small violations and gross violations, something to that effect. Does this refer to the discrepancies of the computer printout from the rental review agency? In other words, will this be the degree of discrepancy between the amount the landlord reported as charging and the amount which was ordered some time ago by the Residential Tenancy Commission?

Mr. Peters: Not necessarily. The committee has heard testimony that, particularly on the smaller buildings, in some cases landlords did not raise the rent at all and in the next year raised it by 12 per cent. Technically, that is an illegal rent because in one year the rent was increased by 12 per cent.

The question that probably is more important is, what is the rent now in comparison to what it would be if each guideline had been taken in turn? The rent registry is there to verify rents as being legal against the test of what was ordered and subsequent awards or the guideline applied subsequently. The question then becomes, if the rent is off by \$5, is that error significant? I suggest that over a 10-year period it may not be great.

The registry is not developed or designed to explain away major differences. Those will be fully investigated. If there is an order, as I mentioned, the minister is required to investigate those under the act and will make an order for a rebate and a rollback. That is under the appropriate sections of the registry.

The Acting Chairman: Thank you, Mr. Peters. We are now 45 minutes behind, and that is becoming very unfair to the other deputations this evening. I would like to thank you very much for coming and for bringing all your supporters with you on such an unpleasant evening outside.

Mrs. Tate: Thank you very much.

The Acting Chairman: Has Ms. Marilyn Gou arrived yet? No. All right. Is Jakob Hoff here?

Mr. Hoff: Yes, I am here.

The Acting Chairman: I am sorry to keep you waiting, sir. Will you come up and sit down, please.

Mr. Hoff, will you address the committee?

JAKOB HOFF

Mr. Hoff: Yes. My name is Jakob Hoff. I am the landlord at 320 Lakeshore Road West, Port Credit. I am a small landlord. I am a member of the Fair Rental Policy Organization of Ontario.

I am having a hard time expressing things; I am so excited about everything. They are saying the landlord makes some money. I have owned the building for 16 years and I have never made a penny where I can say I put the money in and take it out and put it somewhere else. Here I have everything that my building cost me last year. If a tenant (inaudible) this, he just has to come and I will explain it.

On my building last year, my expenses were \$34,999. My hydro was \$3,841.21; my oil was \$4,929.67; my taxes were \$5,388.65; my water bill was \$994.60; my fire insurance was \$916; my maintenance and all that belongs to it, the office and everything that is included there, was \$17,066.94. My travel expenses for my car and the gas were \$1,100. There were still other expenses there; I do not have the bills there.

All that I made in the building was \$15,266. My building is worth more than \$300,000. I figured out exactly what I get on my money now and it is not

even five per cent. I spoke with some tenants and all my tenants--some have money, some do not have money--have made good investments where they get back eight per cent or nine per cent. I never get that much back. That is the first thing I have to say. I cannot keep up with all my maintenance and cleaning like I did before. I say I hope I make lots, but I make less. I get nothing. The tenants do not even appreciate what you do in your building. That is the first question.

Now I come to the second question. The second question is that tenants have too many rights. If you come to the tenant and ask him something, he does not care about the work or the building. If you say to him, "Listen, if you are coming out of the building, will you be kind enough to put everything you throw out in the can?" he does not care at all. He says he has not got time.

It is usually the law that you have to give 60 days' notice. I have owned the building 16 years and I do not get that much notice. If he gives you notice, 30 days or 28 days, and you say, "Look, that is the law, 60 days," do you know what they tell you? Can I express myself here? Do you know what they are telling me? They say: "Fuck off. You have no rights, landlord. We are tenants. We have rights and we tell you what you have to do. I move out and you are going to sue me." At this moment, if I turn around and want to give somebody notice because he owes me money or something is wrong, he says to me: "You have no right. You have to have a good reason."

Just last week, somebody in my building damaged my apartment, and I told him, "Listen, that is not right to do." Do you know what he said? He said: "You crazy landlord, you are here and you have no rights. Why did you open your mouth? Just go in and be quiet." Can you tell me if this is right that the tenants come telling you to your face, as I said before: "You are crazy; get lost"?

It is the same thing if you go and collect the money. I am not a rich man, and all the money I have I put into my building. My tenants, if you come in there at the other times, they have (inaudible). If you go in, they have colour televisions and big cars. If you are coming for the money, there is no money.

20:20

One of my tenants said: "Do you know the law? We have 15 days. Get lost. Open the door, get lost. We have 15 days." After the 15th day, I went there for the rent. I asked him on the 16th day. He said: "Do you know what you have to do? My stove does not work. You come fix this today." I said, "Why did you not tell me that before?" He said, "I do not have to tell you that."

I fixed the stove, and there was nothing wrong inside the stove. He was so dirty the grease had run down to the thermostat. There was a short inside. When I was told that something was wrong in the stove, I took out the drawer where the fuse was; it was half full of water. I was surprised that somebody could live like that. I fixed the stove.

He said, "You come back tomorrow." The morning after that, I was there. That is why I cannot get him out. First you have to have five days after 10 days. I was at Mississauga--I come from Mississauga--and they give me all the information, and I have to hire a lawyer.

The guy was inside three months. Not one penny did I get. I have to pay for my time, I have to pay the lawyer, and I did not get one penny. I will not

take him to court. I was there. The guy has nothing. What does he have? What we can take from him? There are about three or four tenants from whom I usually lose three or four months in the year.

Now I have to pay taxes, hydro, oil, heating, water--everything. Nobody comes from the tenants and says, "Mr. Hoff, I give you \$5." Nobody. But my money is in; I have to pay for that. If I turn the water off, Hydro says that costs me \$2,000. Now you want to tell me for my money what I want that I put in. You have nothing like pay, pay, pay. You do not pay (inaudible).

This moment you lose. This tenant stood there and said, "You have no rights; we have rights." I do not think that is right. I never will recommend somebody to put some money in an apartment building. I say the money is there. I know so many friends. They sell, and everybody says it is too much of a problem.

Now if the tenants move out, I should get--the lady there, the way she talks--I would bring them there only once and show them how the apartment is inside. Why should I put some money inside the building? First you have to try. After you can talk. If you do not try, you never can talk. When I find out--I am very bitter, I repeat, bitter, about my apartment building. I have mine on the market there so many times, and I do not put the money I have inside there.

Will you tell me please that this is the right market to put money in if I have no rights? You cannot turn off the light, the heat, the hydro or the water. After, they start blaming that. One tenant broke my door closer, he broke my window, he damaged my land. I tell him, "The thing is over here."

He had the book. "You know the book," he said. "We are not responsible. We do not have to pay for any kind of accident." I put a new counter on, and the counter was three weeks inside. I came in. I checked. There was something wrong; there was so big a hole then.

I said, "What did you do here?" They said, "Sorry, that is an accident." They tell me right there to my face. They had the book and said: "You know what is inside here. That is an accident and we do not have to pay this." I said, "Who has to pay?" They said, "You have to pay this."

How many windows in my apartment did the kids break? I know exactly. They say, "Sorry, it was an accident." That is legal, and I can do nothing. Do you feel this is right? I do not think this is right. If I hit somebody on the road with my car, if I cause an accident, I have to pay for that. Why can people do this in the building? If somebody brings the (inaudible) inside there, the (inaudible) was--pardon?

The Acting Chairman: Excuse me. What the Hansard reporter is doing is identifying the fact that you are speaking. That is all he is doing. All you are saying is being recorded, and the Hansard reporter has to identify who the speaker is; that is you. That is what he is doing. Do not pay attention to him.

Mr. Jackson: Just speak into the microphone from time to time.

The Acting Chairman: Thank you, Mr. Jackson. That is very helpful. Carry on sir. Forge ahead, it is wonderful.

Mr. Hoff: There is a second question that I want to point out. Why does a small landlord have to have his mailing address and his telephone

number on the door at the front? The tenants keep calling you at about 12 or one o'clock in the night when you are in bed. If there is a building and the superintendent is there, do you not think that is enough?

A tenant sued me--it was up there but not very big--and I lost three days in court. The court was from one o'clock to 4:20. Okay. The judge was a very reasonable guy, and he asked the tenants--the tenants sued me after I moved out--"Why did you not see this before?" He said, "I saw it, but it was not big enough." I do not know exactly what size you have to put on. I put it on with a typewriter, very big. Each tenant can see this. And they call you at one or two o'clock in the night.

For some tenants this is just a joke and they start to talk with you. I do not think that; it is a business, and it is has nothing to do with private life, nothing. A private life is a private life and business is business. If they have something, they have to come to my superintendent and they have to explain what they have and the superintendent has to phone me. That is what I feel about it.

What is the next question? Now we come to the last of four points. As long as we have rent control, we will never have enough apartments in Ontario. I just want to give an example. In May I had an ad in the paper. My apartments are very cheap because it is an older building; it was built in 1954 or 1955--I think it was 1954--and the rent at this time was low. I want to say it was low against a high-rise apartment. I had the ad in the paper in May. What is the use of having rent control if you cannot get an apartment?

They come to my superintendent to give him some money. I repeat, "money." I told him, "Never take money, because I can rent the apartment." I had 130 calls, and 120 people showed up. I have so many applications--I say to the superintendent--I am still downstairs and they are still phoning. What is the use of rent control if they cannot get an apartment? Can you explain that? It is something I cannot understand. That is no good for the landlord, and it is no good for the city or the government.

If your rent is too low, you cannot keep up maintenance properly. I saw some apartments before--I have some friends; they have a superintendent inside and they have a manager. Before rent control, it was nice and clean, outside and inside. Now you go there and what was a nice apartment--I do not want to say it is dirty but it is not clean. I spoke to so many and each person tells me the same, "We cannot afford this." If the rent controls stay like that, we will not have enough apartments.

As I said before, I would never recommend to someone to put money in an apartment building. I get five per cent out. I have money and I put it somewhere else and I get 12 per cent to 15 per cent. I have no worry; I sit down and the money comes in. Can you tell me where I am better off--to put some money in the building from which you get nothing or to put money where you can invest it and the money can give a return?

Apartments are a business. A business with no return is a sick business and sooner or later it will be closed down. It is the same with apartment buildings. If the tenants feel they can continue like that, renting places like that, sooner or later (inaudible). They will come, not with \$100 but with \$500, just to get an apartment. It is just like the black market and that is not a healthy market.

The Acting Chairman: Thank you, Mr. Hoff.

Mr. Hoff: You are welcome.

The Acting Chairman: From the chair, maybe I could ask you a question. Are you a member of the Fair Rental Policy Organization of Ontario?

Mr. Hoff: Yes.

The Acting Chairman: They have been saying to us we should pass the bill.

Mr. Hoff: I beg your pardon?

The Acting Chairman: Members of the organization have asked us to pass Bill 51, the bill we are working on, the rent review legislation. They have said to us we should pass it. They say we should not mess around with it; we should just pass it. Is that your view? Is that what you want us to do?

Mr. Hoff: I do not understand exactly what you mean by pass it? Can you explain that to me?

The Acting Chairman: Make this rent review into a law.

Mr. Hoff: Into a law. Is this not a law?

Mr. Cordiano: No, it is a new bill.

Mr. Hoff: Oh, this is new. No, I do not think you should make this the law. If this is an old one, obviously you should get the next one here. This means you get and get and get; the landlord is just--

Ms. E. J. Smith: To make one brief comment, I would like to assure this fine gentleman that he does not need to have his home number on the door of his apartment. If he wants to take it off, he is entitled to do so under the law.

Mr. Hoff: I phoned rent review. I get a \$2,000 fine if I take it off.

Ms. E. J. Smith: You can have a business number or an answering machine.

Mr. Hoff: I do not have a business. I just work for a company.

Ms. E. J. Smith: Buy a little machine. Unplug your phone.

The Acting Chairman: I am not sure that is the best advice you were given. The Landlord and Tenant Act does not require you to have a phone number, but it does require you to have your name and address there.

Ms. E. J. Smith: Right, that is my point.

Mr. Jackson: Maybe the superintendent asked them to phone him.

Mr. Hoff: The superintendent has an apartment there.

Mr. Jackson: I know. If they have your phone number, they do not have to bother the superintendent.

Mr. Hoff: Can I take my address out and just put the name on?

The Acting Chairman: No.

Mr. Hoff: So what is the use? It is the same thing.

The Acting Chairman: You should do what I do. When I do not want to talk on the phone, I have one of the kids answer, "He is not at home. I don't speak English," then hang up right away.

Mr. Jackson: For this he gets re-elected?

Mr. Hoff: What do you do when people phone at one o'clock at night? You are scared.

The Acting Chairman: I unplug the phone. I unplug it and let it ring.

Mr. Pierce: Mr. Reville does not get those kinds of calls at one o'clock in the morning.

The Acting Chairman: I get a lot of calls all day long, but sometimes I do not talk.

Mr. Hoff: I get lots of calls too; sometimes stupid things.

The Acting Chairman: A lot of mine are really stupid too. I agree with you.

Mr. Hoff: If a tenant tells the landlord, "You are stupid," is there a chance that you can give him notice?

The Acting Chairman: That is a legal question. I cannot answer that.

Mr. Hoff: I phoned the landlord and tenant people at Mississauga and I was told: "Mr. Hoff, that is very hard; there is no reason you can give him notice. That is not a reason. If he says you are stupid, that is not a reason to give him notice." Is that correct?

The Acting Chairman: It is probably not one of the causes, but you might want to consult your lawyer about whether that is a ground for eviction. I doubt that it is.

Mr. Hoff: Every time I call my lawyer it is \$55. That is very expensive.

The Acting Chairman: When people tell me I am stupid, I do not pay any attention to them.

Ms. E. J. Smith: Unless it is one of your kids.

The Acting Chairman: Then they lose their allowance.

Mr. Jackson: He is a lawyer and a politician, so he gets called that a lot.

Mr. Hoff: For your money, what you have inside and what you (inaudible), if they still call you stupid, do you think that is right? Can you tell me that?

The Acting Chairman: That is a philosophical question I am not qualified to answer, I am afraid.

Mr. Hoff: Okay. Thank you very much. I am sorry I was a little excited to hear the lady talking about a landlord.

The Acting Chairman: Quite a few people have been excited here today, sir. Thank you very much.

Ms. Barbara Tulk, hello. Are you excited too?

Ms. Tulk: No.

The Acting Chairman: Come on up here and stick around. We have a brief from you with a cartoon on the front.

Mr. Jackson: Where is Jennifer?

Ms. Tulk: Jennifer could not make it tonight. We are sorry.

Mr. Jackson: Oh, that is why I came tonight.

Ms. Tulk: It was on such short notice that I could not take her out of the presentation. She worked hard on it so I am going to leave her in.

Mr. Jackson: An honourable mention.

OPTIMIST TENANTS ASSOCIATION

Ms. Tulk: The cartoon is courtesy of my brother who tried to give our presentation some humour and some personality. Of course you get tired of hearing about forms and numbers of the chronically depressed.

The Acting Chairman: We appreciate personality and humour; at least some of us do anyway.

Ms. Tulk: We have never attended or been part of a hearing before. We hope this will demonstrate in part how strongly we feel about the importance of Bill 51.

My name is Barbara Tulk. I live at 945 Midland Avenue, apartment 1410, in Scarborough. I represent the Optimist Tenants Association, in which I hold the position of president. Our building has 148 rental units.

With me tonight is Linda Seeley, a member of the association and a tenant there. Not with me is Jennifer. Jennifer lives at 45 Greencrest Circle, apartment 514, also in Scarborough. The combined number of rental units in the two buildings is 160.

Jennifer and I live in limited-dividend buildings. Limited-dividend buildings are federally funded buildings where the landlord receives favourable mortgages of 50 years at 5.78 per cent financing and where standards are set through Canada Mortgage and Housing Corp. for the purpose of administering lower rents.

Picture this scenario for a moment.

A cute, furry animal nears extinction for reasons such as lack of control over the hunt or hunters. This causes a great public outcry--save the poor creatures. To you, our members of the government, pleas pour in to protect the animals from extinction. You do this by passing a set of laws and enforcing those laws.

This is how we see our problem. Instead of a cute, furry, little animal our problem is affordable housing, our homes. Landlords are uncontrolled and there are no penalties for us to act upon. Public outcries come to you from tenants of these buildings. Today we ask for your help in protecting affordable rents and ensuring penalties that ensure that protection. Otherwise, affordable housing will be extinct.

Who lives in limited-dividend buildings? They are the elderly, handicapped, single parents, disabled, young families, new Canadians, widows and students--all on fixed or limited incomes. So where does the extra money come from? If we lose our homes, where do we go?

Please help stop Bill 51's term "chronically-depressed rents" on limited-dividend buildings.

Maintenance: Why would you pay the same rent as other units when the roof leaks, pipes are broken, taps drip, cockroaches travel the place freely, mice inhabit the building, appliances need replacing, wiring is faulty, sewers are backing up, walls are leaking, weather conditions permeate the exterior construction, locks are broken?

All this goes on now when we pay our rent in good faith. What will change, except more hardships put upon the tenants? This we do not need.

Limited-dividend buildings are supposed to be lower in rent than the market price, and if the landlords could not maintain these buildings on the said paid rents, they could have gone to rent review, but they chose not to justify the rent increases this way. Maintenance must be a big consideration in the Bill 51 rent review changes and we ask again for you to change this.

20:40

Mr. Cordiano: Ms. Tulk, I appreciate your concern about increased rents and the question of affordability and I want to make a few comments about that. We are all acutely aware of that problem.

With regard to chronically depressed rents, I think you heard earlier that in fact only two per cent of all units in the province--or approaching two per cent--will be allowed to take advantage of the chronically depressed provision of the bill. That is not going to mean a very large number of buildings or units. The estimate is something like 5,000.

Ms. Tulk: Are these the limited-dividend buildings that have already been through the government funding programs?

Mr. Cordiano: They may or may not. It is difficult to tell.

Ms. Tulk: In Scarborough, there are 5,000 such units and 20,000 of these in Metro Toronto.

Mr. Cordiano: Not all of these limited-dividend buildings will be affected. Correct me if I am wrong, and I am speaking to the ministry officials, but the estimates based on the study that was presented to the committee indicate that 5,000 units will be affected. Consequently, it is difficult to say whether your building will be affected. I do not know. In order for a building to take advantage of those provisions under chronically depressed rents, the three criteria have to be met. I think we pointed those out earlier.

Ms. Tulk: Limited-dividend buildings would meet these criteria. This is what we are stating.

Ms. E. J. Smith: They could not all or they would occupy the whole category. A few may but there are as many limited-dividend buildings as meet the whole criteria of chronically depressed so they cannot all meet it.

Mr. Cordiano: Perhaps we can get some further light shed on this by ministry officials with regard to limited-dividend buildings. How many of these units will be eligible for chronically depressed rent provision in the bill? Do you have any estimate on that?

Mr. Laverty: Mr. Cordiano, we are talking about one or two per cent of the pre-1976 units. We are talking of something in the order of 18,000

units. According to the York study, a very large number of these, something upwards of 85 per cent, are in very low density uses; namely, six units or fewer. A typical low-density building and project is an awful lot larger than that so one would expect, first of all, it is unlikely that very many low-density buildings would qualify, although some may indeed.

The second thing that should be pointed out is that if the condition of the building is as bad as the deputant has described, she should be assured the rents in that building would be compared with a comparable slum which is equally bad in terms of its quality and it would not be compared with the rent on a building which was in a good state of appearance and repair.

Mr. Cordiano: As a result, it would not qualify. Let me make another point with regard to your concerns about maintenance. Members of this committee, at least the members of the Liberal caucus represented on this committee, are very concerned about the maintenance provisions in the bill. It is of crucial importance. The agreement was reached by members of the Rent Review Advisory Committee. The whole question of maintenance is fundamental to what we see as a delicate balance that was arrived at in the bill. Quite frankly, if maintenance in your building is not provided to a standard that is acceptable province-wide--and that standard is being worked out now by the Rent Review Advisory Committee--if that is not applicable, then the landlord will not get his guideline increase; the minister may withhold that increase.

Ms. Tulk: We are from Scarborough. There are 11 inspectors who check our buildings and they are so loaded with work now that they do not get to the buildings. If they do, they fill out their reports. There could be 37 violations, and on a return visit it could jump to 46, but still nothing is done to that landlord to bring up those standards. They just keep writing report after report, or they do not return to complete the report but take the word of the landlord that the repairs have been completed as designated in the report.

Mr. Cordiano: As I say, some of that is being worked out by the RRAC.

The Acting Chairman: Some of it is not.

Ms. Tulk: None of it is.

Mr. Cordiano: Some of that will be coming before the committee. We have yet to see what those provisions are, but I can assure you that the members of this committee are very interested in maintenance provisions.

Ms. Tulk: Here are pictures of one apartment alone in which we have parquet flooring. We are measuring the water damage in this building by the tiles. For some people, it is up to 13 and 14 tiles in on the exterior wall. It no longer is a barrier from the weather. The ceiling, walls and everything leak. If that is not a hazard, I do not know. You may have those if you like. We are counting parquet floor tiles in.

The landlord has been notified in writing. It was by registered letter. We have a signature back from him that he received this registered letter a year and a half ago, and this is still going on. As I say, some apartments are worse. They are counting 13 or 14 tiles in, and there just does not seem to be anybody to whom he is accountable.

Mr. Cordiano: I would like to ask the ministry again. Do you have information on this particular building or do you know the building?

The Acting Chairman: Do you recognize those floors?

Mr. Peters: No, I do not.

Mr. Cordiano: From time to time, we have had the ministry shed some light on certain areas of the city with reference to particular areas in Scarborough, etc., with regard to some of the orders that have been issued, where we find that maintenance has not been kept up.

Ms. Tulk: If our stuff is becoming damaged and you can afford the luxury of tenant insurance, they are not covering us because they tell us it is the fault of the landlord for not providing us with proper housing. They will not cover us--that is right--if you can afford the luxury of tenant insurance. But it is a luxury that a lot of my tenants cannot afford.

Mr. Pierce: May I have a supplementary to that? I wonder whether the ministry can shed further light on this case under Bill 51. If the necessary repairs are made to this building, how would they be reflected in the existing rents?

Mr. Peters: I am in the area of speculation, which is not my forte, but it would appear to me that if there were significant capital improvements to the building, then obviously the provisions of the act would apply. One of the issues, though, would be whether this happened through the wilful neglect of the landlord. As you know, the act allows the minister to withhold a capital improvement or the refinancing of that improvement if it can be demonstrated that it is wilful neglect. The issue probably--

Mr. Pierce: May I interject here just a little bit? If the minister does that and withholds the approval or any increase, and if the landlord then elects not to make the repairs and the city issues an order, where does it go? What happens here? You have three parties going in three different directions.

Mr. Peters: That is probably one of the most difficult issues to address in the sense that, from any discussions we have held collectively or individually with tenant representatives, what they do not want to see is work order piled upon order and no change in the level of maintenance. One has to try to break that logjam. What everyone wants is a decent, habitable home. I guess in the worst possible case at some point the building may well be abandoned if something is not done.

20:50

Ms. Tulk: Then where do we go? We lose our homes.

Mr. Peters: That is the situation that I suggest we try to avoid. I am not suggesting for the moment that if every work order that has been issued by the municipality has been disregarded, it is an easy process to turn that around.

The Acting Chairman: From the chair, if I may--Mr. Pierce, this may be of some help to you too--it seems to me that the tenants could always bring a section 96 application under the Landlord and Tenant Act, which requires, if you are successful, that the landlord has to give you money back because he did not provide you with what you thought you were getting.

Ms. Tulk: That is on an individual basis, though, is it not? If I have a problem, I take it to court with my landlord, but I cannot represent an entire building.

The Acting Chairman: It could be done jointly.

Ms. Tulk: That was one change I noticed in Bill 51. One tenant can represent a building now. In that type of court system, if every individual tenant goes on a one-to-one basis--and that is starting to happen; we are winning our cases--it is tying up time. We are talking of maybe two years. A hole that started off as a little drip can end up as a three-by-four hole--and it is happening--before it is actually resolved.

Mr. Pierce: Yes. I appreciate the clarification, but at the same time I look at the other side, where you may have a landlord who, because of what he considers to be depressed rents for the last 10 years, does not have the resources to make those repairs and finally says in exasperation, "You can take it and do what you want with it." What happens to the tenants? Where do they go?

Ms. Tulk: He has been to rent review and cannot justify the rent increases. He went once, asked for a nine per cent increase and got only 1.5 per cent at the time because they were not properly justified. Estimates and improper billing were submitted. There were not actual work orders or guarantees that the work was even going to be done. They were just estimates.

Mr. Pierce: Mr. Cordiano, thank you for the supplementary.

The Acting Chairman: Were you finished, Mr. Cordiano?

Mr. Cordiano: Yes.

Ms. E. J. Smith: Just briefly, the kind of conditions you are talking about are the very conditions we all want to correct. That goes without saying. Whether the buildings you are talking about have anything to do with chronically depressed rents we do not know. It would be hoped that if the reason your buildings are in such a deplorable state is that the landlord literally has no money to do anything, then your case would be represented by the tenants who suggested that the most important thing was to start getting at least some decent conditions, and one hopes that would be looked at.

Without exception on this committee, we are all anxious to know what will come back from the Rent Review Advisory Committee about the enforcement of regulations having to do with maintenance. You may be sure we are all with you on that. It is one of the intentions and one of the most important things, if not the most important, to the tenants on RRAC. The landlords on RRAC accept this as one of the most important issues. It surely is as important to your good landlords as it is to the tenants to have a decent building at the end of all this.

I can only say that we cannot give you the answer now. We share your concern. We believe it is the full intention of the RRAC and we await their report. As to whether you are in the chronically depressed rents, do not be confused that depressed buildings mean chronically depressed applications.

Ms. Tulk: No.

Ms. E. J. Smith: There is a difference.

Ms. Tulk: We are just concerned that limited-dividend buildings were going to be included with chronically depressed whereas they are a separate category of their own. They had government-funded mortgages that the landlord

received in order to offer a lower rent than the market price. If they are going to be that way, then we should at least be entitled to a standard of maintenance such as we had in our own home.

Ms. E. J. Smith: I agree. This committee asked for more information on limited dividend. We are all very happy that today it was tabled with us. I have had a chance only to glance at it. You have brought it to our attention again, and I am sure we will keep it in mind.

Ms. Tulk: Thank you.

The Acting Chairman: Do you happen to be aware under which aspect of the limited-dividend program your building was funded, and has that changed?

Ms. Tulk: No, sir, I am not.

The Acting Chairman: It might be a good idea to check that out with your local Canada Mortgage and Housing Corp. office.

Ms. Tulk: We went to rent review. Apparently, they are supposed to be notified that your landlord is asking for a rent increase. He said they were not, so we, the tenants, notified them on our own behalf. Their attitude was: "Well, he is there now. We will wait and see what results from the hearing." They washed their hands of it. They did not help us at all.

The Acting Chairman: That may be something you want to take up with your federal member of Parliament. In some of the limited-dividend buildings, the arrangements can be changed on negotiation with CMHC, but they are subject to rent review. You may want to check that out.

Ms. Tulk: So if you can change the standing of limited dividend, it does not apply to his building. Is that what you mean?

The Acting Chairman: No, it still applies, but the conditions change and you want to make sure that has not occurred.

Ms. Tulk: Okay. Thank you.

The Acting Chairman: Thank you all very much.

Ms. E. J. Smith: Do you want take these folders? You may as well keep them in case you want them for rent review some time.

The Acting Chairman: We stand adjourned now until 1 p.m. tomorrow.

The committee adjourned at 8:56 p.m.



STANDING COMMITTEE ON RESOURCES DEVELOPMENT

RESIDENTIAL RENT REGULATION ACT

WEDNESDAY, OCTOBER 1, 1986

Afternoon Sitting

STANDING COMMITTEE ON RESOURCES DEVELOPMENT

CHAIRMAN: Laughren, F. (Nickel Belt NDP)

VICE-CHAIRMAN: Ramsay, D. (Timiskaming NDP)

Bernier, L. (Kenora PC)

Cordiano, J. (Downsview L)

Epp, H. A. (Waterloo North L)

Knight, D. S. (Halton-Burlington L)

Pierce, F. J. (Rainy River PC)

Reville, D. (Riverdale NDP)

Smith, E. J. (London South L)

Stevenson, K. R. (Durham-York PC)

Taylor, J. A. (Prince Edward-Lennox PC)

Substitutions:

Caplan, E. (Oriole L) for Mr. Knight

Gordon, J. K. (Sudbury PC) for Mr. Stevenson

McKessock, R. (Grey L) for Mr. Epp

Reycraft, D. R. (Middlesex L) for Ms. E. J. Smith

Also taking part:

Jackson, C. (Burlington South PC)

Clerk: Decker, T.

Staff:

Richmond, J. M., Research Officer, Legislative Research Service

Witnesses:

From the Ministry of Housing:

Peters, F. H., Executive Director, Rent Review Division

Laverty, P., Director, Rent Review Policy Branch

Individual Presentation:

Templeton, R. C.

From the Fair Rental Policy Organization of Ontario:

Grenier, W., Chairman

Goring, P., Director

Stricker, H., Director

Waese, H., Director

From the Scarborough Tenants' Council:

Adams, T.

Hutchinson, G.

Individual Presentations:

Rose, M.

Wrisberg, J.

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON RESOURCES DEVELOPMENT

Wednesday, October 1, 1986

The committee met at 1:14 p.m. in room 228.

RESIDENTIAL RENT REGULATION ACT
(continued)

Consideration of Bill 51, An Act to provide for the Regulation of Rents charged for Rental Units in Residential Complexes.

The Vice-Chairman: I invite our first deputant, Robert Templeton, to the front. Make yourself comfortable in one of the chairs up here, Mr. Templeton. Any time you are ready to begin, the floor is yours.

ROBERT C. TEMPLETON

Mr. Templeton: Fine. Basically, I am here representing my wife. My presentation is about superintendents and about how superintendents have been affected by the legislation since it has been introduced. It is very short, but I cannot impress enough on any committee my desire to see legislation that is going to reflect favourably on and permit a good liaison between tenants and superintendents and not permit tenants to go through loopholes and create problems and tension.

I have written down a small amount here. Here are our observations and suggestions, based on the past years of rent control and some of the effects faced at the superintendent level. I further point out that the experience is based on conditions in existence for several years prior to the introduction of rent control and to date.

Security deposit: Prior to rent control, recovery of costs for damage was possible when an incoming tenant signed an inspection report outlining existing conditions by comparing same with an inspection report prior to vacating. Responsible applicants found no fault in accepting the policy and were inclined to respect the property, including the rented premises, halls, laundry rooms, parking, outside property, patio, etc. Reintroduction of the deposit for security would not create any hardships in as much as a responsible tenant would still respect another party's property and take pride in so doing. Experience shows a minimal number of successful applicants, and I say minimal, left filthy fridges, stoves, floors, etc., and damaged appliances and/or walls. Prior to rent control, in some instances the costs were recoverable without any problems.

As to subletting, prior to rent control, applications to sublet were received, reviewed by management and another tenant selected. Today the tenant is advised that he can obtain someone for the sublet whether or not he would be successful on the completion of an application. In addition, any prospective applicants on a waiting list are without an opportunity to be considered.

Occupancy during a lease period: Originally, occupants of a suite were indicated on the lease and it was duly signed. Any addition or change required

approval. Today remedial action on the above requires lengthy actions that result in a basic requirement of overcrowding as the only recognized principle applicable per municipal bylaw. This does not aid in the stability of maintenance of previously high standards for all occupants.

Property management and control should remain the responsibility of the owner with reference to occupancy during a lease period. Early termination for breach, late rental payments, etc., must be registered on form 4 and served on the tenant to receive any recognition under the present rent control legislation. In addition, this practice must continue for not less than five to seven months before a successful application for termination might be effected and there is no guarantee that it will be.

Prior to this legislation, a reminder was sufficient to the responsible type of tenant and the response was pleasant. In the odd instance, there was a note advising that unforeseen circumstances had arisen and that it would be appreciated if there could be recognition of a delay or possible delay for the next couple of months. Today late payments getting out of hand can be a problem and are a problem for a minimal number of tenants. To comply with the requirements, a form 4 now is necessary. Only a minimal number of tenants are so involved and say in an antagonizing manner, "I do not have to pay until such and such a date," when he receives the notice and he takes it as an extension of when he has to put it in.

This necessary approach creates varying degrees of ill-will between tenant and superintendent. If it becomes necessary to finalize occupancy, the tenant remains until a final action is effected. You can ask questions after if you do not understand what I am trying to imply.

In the case of the tenant who fails to exercise control of a child or children in his suite and/or in elevators and/or in halls and other areas of the building, and/or outside areas of parking, windows on the main floor, littering the grounds, etc., the tenant who shows disruptive behaviour towards other tenants or their guests, the tenant who has loud and late parties, the tenant who uses and has guests using abusive, threatening and/or foul language, the tenant who defies building regulations, etc., although minimal, the resentment caused by requesting co-operation and correcting the various breaches can readily snowball, and gradually snowball, into open defiance against the superintendent, who is responsible for dealing with such matters. It can also deteriorate into possible vandalism, particularly after form 4 is issued and the six-month period expires.

13:20

Tenants report any number of incidents but will not sign any statements because of either a fear of retaliation or a wish not to become openly involved. The result is that another tenant observing a failure to correct a problem tends to have the odd lapse into a similar situation. If it is drawn to his attention, he replies, "What about so-and-so?" In some cases good, reliable tenants have relocated.

The foregoing has not been discussed with any individual or party, political or otherwise, and is being presented to reflect a very few results of rent control legislation and its effect on the duties and relationships encountered by a superintendent, my wife, well past the past dozen years. Time does not permit a comprehensive presentation. If rent control is a must, it is trusted that the drafting of amendments to the present legislation will

reflect equal concern for similar protection of superintendents' welfare. If this is not achieved and so reflected, it will be the superintendent who will bear the brunt of an already deteriorating employment environment.

In conclusion, and to ensure that the records are straight, let it be known that we resent the implications in a recent column for tenants' questions that it was known that all tenants expected extras, which again distorts what might be a practice at some locations re superintendents. Many things are questionable and many things are unquestioned.

It is trusted that this committee finds some merit in this presentation. Thank you for the opportunity to present this today.

The Vice-Chairman: Thank you, Mr. Templeton. Mr. Taylor would like to ask you a question.

Mr. Taylor: I understand your presentation as requesting a sort of superintendent's bill of rights.

Mr. Templeton: No, it is not that. In the drafting of legislation, it is quite easy. You have guidelines when you are driving, You go through a red light or you do not go through a red light. If you go through it, you get a ticket, etc. You might have an accident.

What I am presenting to you is that there are occasional instances where the odd tenant gets a freebie, if you want to call it that, anything in life that is going to be on the side of an individual. I think you or I take advantage of an orange light on occasion; we will squeek through. I do not know. There are some people who make a habit in life of getting into, say, the Pure Food Building to get samples and whatever is coming. If they take the wrong approach to their children causing problems or having parties and resenting it, and if somebody else has one, they go back to having it. This is what I am referring to.

The legislation as it stands has introduced this form 4. As an example, through the years, two tenants in the building had been issued that form outlining a number of incidents in which they had urinated off a balcony, had turned around and thrown a beer bottle from a balcony and broken it in the driveway--this was witnessed by another tenant--threatened a person, were abusive to--you can call it bigotry. They play all these angles, and when you try to corner them on it, you run into this business of having to wait a given period. If they slack off, little incidents happen. You cannot say that tenant is responsible for them. There is a delay period built in there.

Mr. Taylor: How would you suggest that the proposed legislation be amended to accommodate your concerns? This is a slightly different twist from what we have heard before. We have heard about the abuses on both sides: interperate landlords and abusive tenants. You as a superintendent and your wife, I gather, have to put up with this kind of thing. You are on the front line. Do you have some suggestion about what might be provided in the legislation that would solve your problem?

Mr. Templeton: As I say, if I were that knowledgeable, I might be sitting in your seat. I do not know.

Mr. Taylor: It does not take any qualifications to be a member of parliament, I can assure you of that.

Mr. Templeton: I do not want to get into that. I have my reservations on that too.

There is a constant presentation to the tenant of his rights. Whether it is to get votes or what, I do not know. If you are being programmed on something, you can go to a certain party. You can go to rent control. They tell you you can do this, that and the other thing. If you do not cease, the form is issued.

They can quiet down, as they did in that one instance for six months, but little, unforeseen things happen. A tenant who had complained was more or less--this has been going on for two and a half years. The case is now pending. The tenant had been threatened, etc., but there was bigotry involved and the other tenants who were in there are reluctant to sign anything because of the threats and because of the nature of the individual.

I am not talking about all tenants. I am talking about the ones who would cause the same kind of problems no matter where they might be. Instead of highlighting these things, if there was a built-in guarantee that their conduct and deportment, when proven--that will be effective much sooner than waiting through the six-month period, giving them warning.

I do not mind mentioning that my wife is in her 60s and she has been on the job for close to 15 years or so. I do not think it would reflect too badly, holding a position that long without being fired and so on. She does a good job. She keeps the place well. We have people living there who are in their 80s and who have been there since the building was put up. The building is about 25 or 26 years old.

It is these things we have seen, and possibly the age factor is one thing that does lead to deterioration as far as a relationship with some of these--if you want to call them--animals are concerned. They do throw their weight. When I was younger, it was a little different. I could answer back, but with the progression of time--

Mr. Taylor: You develop a little more respect for the younger generation as you age.

Mr. Templeton: Some of them are not too young either. It is not setting a very good example for the young generation, implying that you can get away with this, that and so on, with nothing happening.

The same applies to the rents. As I said, it might be four out of 80 suites maximum in which any tenants become a problem. We have tenants who are most desirous of improving conditions in their own places. If you redecorate an apartment today, for example, the increase that is permitted--and I do not want to get into that factor because I am not a financial wizard either--would be a two-year increase to cover the cost of redecorating one three-bedroom apartment, without the costs involved in plumbing and so on.

We try to keep to a budget and to maintain things. The building is clean. It is being painted. The landscaper is there. You are welcome any time anybody wants to come. Mind you, I do not want this publicized if I can avoid it, because some of these people would probably retaliate in some manner--the two or three tenants.

I cannot see where initially this business of slum landlords was so overwhelming throughout the city. I know there are buildings that are not in great repair and I know those are going to happen regardless. Why the introduction of the legislation all of a sudden, out of a clear blue sky?

We never had any problems, but we started to get problems as time progressed. We had people coming around canvassing the building asking: "Have you any problems? Are your repairs up?" What the hell; they come into the building. You cannot refuse them because they are from a political party. They go around, rap on the doors and try to open a can of worms that is not there. Somebody may say, "I have nothing to lose; maybe I can get something." That is what I am referring to. It all comes back to the superintendent. We have to live there.

13:30

Mr. Pierce: Mr. Templeton, have you had a chance to read Bill 51?

Mr. Templeton: I have read parts of it but I have not gone into a deep study on it. I have just been involved in these areas. As I point out, there are only three or four. I do not know what other apartment buildings encounter.

Mr. Pierce: You indicated you are really here on behalf of your wife. She is the person who runs the apartment building you are in and looks after the maintenance, repairs and so on.

Mr. Templeton: I assist in some of the heavier stuff.

Mr. Pierce: That was the question I was going to ask. Do you help her in that endeavour?

Mr. Templeton: On the heavier things, I try to.

Mr. Pierce: Does she look after the actual rental of the apartments? Does she take a list and select the tenants?

Mr. Templeton: You mean applications and so on?

Mr. Pierce: Yes.

Mr. Templeton: I look after that end, more or less. We take applications when there is a vacancy and go through them. We take only three applications at any one time. We are notified who is at the top, next and next.

If you wish to amplify on it, as an example of what concerns us, two people moved into the apartment. Whether they are living common law or not, I do not give two hoots, as long as their deportment is respectable, with children around and so on. They broke up. Another chap came along and he was involved in drinking sessions and so on. He was of the calibre that mixed in nicely with another tenant who did the same thing. Suddenly, we had people going back and forth to the apartment. He broke up with his wife and stayed there by himself. The other tenant's wife left him and he brought in four fellows.

Mr. Taylor: That is some trade.

Mr. Templeton: Yes, and I do not share any of the profit.

These are things where you have no say. The wife takes the applications; I fill them out and pass them on.

Mr. Pierce: If I understand correctly, the bottom line is that as custodians of the building and landlords of the estate, you really have no control over what goes on in your building. You are nothing more than somebody at the front door who accepts the cheques, signs the leases and looks after the building.

Mr. Templeton: No. The relationship is excellent. If there is anything requested or required, the owners have co-operated. They have leaned over backwards to ensure that the area and the building are up to the highest standards possible within the allowances they have.

Mr. Pierce: Do you have a pretty good mix of tenants by age groups?

Mr. Templeton: We have a lady who is 93 years of age.

Mr. Pierce: That is at the high end, I guess.

Mr. Templeton: That is the high end. She was going to move out when we took over. We were living in the building prior to that. They went through three superintendents and my wife and I took it on a trial basis. This tenant nearly died in hospital as a result of an arterial X-ray. Something went wrong and her speech was affected. They thought therapy might help, and it did. It is back to normal, but it was just a diffuse area which they claimed was affected. We took it on at that time and this lady, who is 93 now, decided to stay on. There were several tenants who did. However, we have lost four or five reliable, respectable tenants due to two or three other tenants who are just up and down and play games.

Mr. Pierce: Has there been any effort on your part or the landlord's part to evict what you would call the less desirable tenants?

Mr. Templeton: In one case, the tenants are still there. They received a form 4 and ceased their activities. There is the odd outbreak, but not sufficient to cause any challenge. The other tenant received a notice two years ago. We were involved once again when the Ontario Provincial Police came up. Apparently, this individual was supposed to be doing weekends. Naturally, they came to our place. I had to go down and rap on the door. Then I had to go back down and he was being led out in handcuffs and being read his rights. I got one good look. The next morning, he was out on bail and made the comment, "Somebody is going to pay for this and you know who." That is a case that is pending at the present time.

Mr. Pierce: I am not going to ask any more questions. You have enough problems of your own; I do not want to add to them.

The Vice-Chairman: Thank you, Mr. Templeton. The committee appreciates it.

Mr. Templeton: May I add one thing? With regard to the repairs in buildings, there is another little, niggly thing and it is invariably the same tenant who is involved. Where there is visible damage--that is, windows are cracked, screens are torn, etc.--why is it the regulation that it must be repaired by us and then we must try to collect from them?

The Vice-Chairman: Mr. Peters, could you address that question, or perhaps it is something we could refer to the minister when he comes back?

Mr. Templeton: These are all the little things in there that make it uncomfortable.

The Vice-Chairman: Leave that question with us.

Ms. Caplan: That is under the Landlord and Tenant Act.

The Vice-Chairman: Yes, it is another act.

Mr. Gordon: Can we have a quick answer to that, Mr. Chairman?

Mr. Peters: I think most of the issues identified by the investigators relate to the Landlord and Tenant Act rather than Bill 51. To claim back against a tenant for damage, you have to demonstrate that it was caused by the tenant. That may be the problem you are addressing. It is an issue for the Landlord and Tenant Act.

Ms. Caplan: The ministry has stated that damage to a specific unit is the responsibility of the tenant in that unit and the landlord collects from that tenant through the provisions of the Landlord and Tenant Act. It is my view--and we had a deputation last night make the same representation--that in fairness to all tenants, they should not have to pay for the damages of a fellow tenant who damaged the premises. It is not fair that all tenants should have to pick up the bill for that one unit. Therefore, if a tenant damages his unit, through negligence or wilful damage, the law provides that he should have to pay for his damage.

The Landlord and Tenant Act could be amended to help the landlord collect from that tenant more expeditiously, because the court process is a difficult and slow one. It seems unfair to expect all the other tenants in the building to have to pick up the cost of the damages inflicted by a bad apple.

Mr. Templeton: I do not intend to imply that all tenants were involved. I am referring to tenants who were specifically involved in the deteriorating condition of their apartment.

Ms. Caplan: They should be responsible.

Mr. Templeton: They should be, but how can that be achieved? If you try to get that, you create a can of worms again, because a responsible tenant does not do those things.

Ms. Caplan: That is right. That responsible tenant should not have to be responsible for the tenant who does that kind of wilful damage.

Mr. Templeton: I am talking about their own suite.

Ms. Caplan: The Landlord and Tenant Act is supposed to deal with it.

Mr. Templeton: It is supposed to. It does not.

Ms. Caplan: If it is not effective, then perhaps--we discussed last night that the Rent Review Advisory Committee may be looking at assisting the landlords to expedite that process to make sure that wilful damage and negligence done by a specific tenant becomes that person's responsibility through a faster court process. It is a very complex problem of how to do it. Bill 51 does not deal with it. If we were to say damage done by an individual tenant should be shared by all the tenants in the building, I think everyone would say that is not fair.

13:40

Mr. Templeton: The approach to that has been and is, "We have nothing to lose; we will fight it." As far as I am concerned, that is what this damned rent control legislation gives some people, who do not give a damn about anything except their own personal welfare and to hell with everybody else around them.

The one who ceases to pay rent can be given his notice. You serve all these notices and, in the meantime, you have created another situation they resent. As soon as you hand that type of person an official form, he gets on his high horse. By the time you take any action, the last month's rent is out of the way and you have to go to court. We have to live with and put up with these people under these circumstances. It is up to the owner to get the money if he can get it, but we have to live with them.

Ms. Caplan: That is the role and function of the Landlord and Tenant Act, as opposed to Bill 51, which deals with the rent review system. Your point is well taken. The committee has heard it before.

Mr. Templeton: I do not ask for a separate bill on superintendents. I ask for consideration of the overall effects on people there. It is a working environment and we are conscientious.

Mr. Pierce: As a point of clarification, in the discussion last night with respect to damages caused by a tenant who is later removed from his apartment so that the landlord is required to go in and repair the damages, I believe, Mr. Lavery, you said those expenses could be carried over and now would become part of the capital losses required in adjusting the rent for the new tenant. If the landlord cannot collect from the previous tenant, the new tenant becomes the victim who has to pay for the damages.

Mr. Lavery: The way both the current and prospective systems work on this is that if the landlord is able to recover the moneys from the previous tenant, it is counted as revenue. Obviously, that is the desirable course of action and Ms. Caplan has already indicated the problems with how slowly the courts move on those matters.

If the landlord cannot collect from the previous tenant because of the tenant's not having any assets to collect against, which is quite frequently the case, to keep the operation financially viable, his only other recourse is to be able to recover it from his other tenants. Therefore, it is a cost of operating the building as a whole.

Mr. Pierce: Recognizing the two processes that have to take place, that either you go after the previous tenant or you add the cost to the rent of the new tenant, the most desirable way to go, with the least amount of hassle, would be to go after the new guy instead of worrying about the old guy. The chances of collecting from the old guy who caused all the damages are slim at the best of times. That is recognized by all landlords and superintendents.

Mr. Lavery: In the law as it stands, he first can pursue the previous tenant. The problem is the slowness with which the law works and the fact that in a great number of cases the former tenant is impecunious. Therefore, he cannot recover the funds necessary to make the repairs.

Ms. Caplan: If you can expedite the process so that you can go after

the tenant who created the damage, that is the fairest system. That person should be responsible for the damage he created. Therefore, the vehicle is the Landlord and Tenant Act and I hope some way will be found to expedite it so that tenants who can afford to pay for the damage will do so and it will not have an impact on all tenants. That is the fairest way.

Mr. Pierce: Are we not living in a bit of a dream world if we think that is going to happen overnight? The alternative is passing Bill 51 and recognizing that the landlord's chances of recovering his losses will be better by adjusting his rent for the new tenant, as opposed to waiting for the laws to change so that he can chase the old tenant.

Mr. Cordiano: He could have done that under the existing act as well.

Mr. Pierce: I am not talking about the old act.

The Vice-Chairman: Thank you, Mr. Templeton, for your presentation.

Order, please. May we stop the internal debate? I would like to call on the Fair Rental Policy Organization of Ontario to make its presentation.

Welcome again, Mr. Grenier. Heather Waese, welcome to the committee. Mr. Stricker, how are you? Welcome. Peter Goring, welcome. The floor is yours. Begin when you are comfortable.

FAIR RENTAL POLICY ORGANIZATION OF ONTARIO

Mr. Grenier: Ladies and gentlemen, my name is Bill Grenier. It is a pleasure to be meeting with you again. At my last appearance before this committee I was wearing my Rent Review Advisory Committee chairman's hat. Today I would like to speak for my industry as chairman of the Fair Rental Policy Organization of Ontario.

Our presentation is rather lengthy. It will be given by several of my confrères. I would like to introduce them to you now, if I may, so that we do not stop each time to go through introductions.

On my right is Peter Goring, a director of the Fair Rental Policy Organization and a member of the Rent Review Advisory Committee. He will explain the RRAC process and why the industry supports it. Peter is a senior vice-president of Bramalea Ltd. and, as such, has considerable background in all phases of the construction and management areas of rental accommodation.

Herb Stricker, on my far left, is also a FRPOO director and will provide his expertise on behalf of both the pre-1975 and the post-1976 developers. Herb is president of Heathcliffe Developments Ltd. and has more than 35 years of development and management experience.

Heather Waese, on my immediate left, who is also a FRPOO director, will provide a more detailed, in-depth examination of the bill. Heather is a principal in Spar Property Consultants Ltd., a company that advises and represents various landlords in the area of rent review and has done so for many years.

You have heard much about FRPOO during these hearings. Some petitioners to this committee have attempted to characterize us as a rich monolith motivated solely by money. Caricatures may be amusing, but at times they are grossly misleading. In fact, FRPOO is a very loosely knit group that

represents the vast spectrum of building management, ownership and real estate professional services in Ontario. Our members are some of the biggest landlords in the province and, as well, some of the smallest. Ownership ranges from 12,000 units under one block to a single apartment.

As an organization, we do not support any political party. We are willing, however, to work with any and all political parties to develop a solution to the housing crisis.

The thread that binds these men and women together under the FRPOO umbrella is reflected in our name. They all want, and are willing to work for, a fair and equitable rental policy in Ontario, fair to everyone: the tenants, the landlords, the investors, the taxpayers and the government. We have tried to avoid the politics of confrontation and intimidation by numbers. We believe that good logic presented in a reasonable and courteous manner deserves more weight and carries more weight than all the shrill rhetoric and placard waving in the world.

We have faith that you ladies and gentlemen of all parties recognize the need for a lasting solution to Ontario's rental problems and that you want to provide that solution. We believe that in the long term the free market system, combined with targeted assistance to those in need, is the only reasonable policy for Ontario. In the short term, we are willing to work with all political parties and all interested groups to develop a fairer and more equitable approach to controls.

I am sure you have learned a great deal in the past weeks as you travelled across the province to hear first hand of regional problems. The message has been clear. On the landlords' side, there are those who will never build again. There are those who will build in small numbers whether Bill 51 is passed or not. There are a vast majority who have told you that Bill 51 is an essential first step towards increasing supply, and I think that is true. It is an essential first step towards increasing supply.

On the tenants' side, you have heard that the gravest affordability problems are among the 30 per cent of tenants at the lower end of the income scale. From them you have heard not so much how to amend the bill and make it work as how to rewrite it completely to provide social housing. The overwhelming majority of Ontario tenants have been silent on this bill.

13:50

You have also heard of the devastating effect of rent controls on housing, of how inexpensive, controlled units are hoarded by the middle class and of how the young, the aged and the poor are forced into newer and more expensive units because there is no upward mobility among renters any more.

You have also heard a message--clear and true--that the solution to our housing crisis lies in supply. I do not wish to hammer at a point you have heard hundreds of times in the past month, but I would be remiss if I did not say it: you will not get supply unless you can restore confidence in government and in government's covenant. I would like to say that one more time: you will not get supply unless you can restore confidence in government and its covenant. That is really what Bill 51 is all about.

If I may, I would like to turn the microphone over now to Peter Goring and have him talk about the Rent Review Advisory Committee process.

Mr. Goring: My job this afternoon is to explain to you how FRPOO became involved in the RRAC process. Some people, as we do, call it FRPO, because the phonics of the acronym are not great, but forgive me if I slip from time to time.

I will try to answer such questions as why we wanted to sit down with the tenants and government, what we feel we achieved and what we learned through the experience.

I sat on the Rent Review Advisory Committee and I am now a member of its successor, the Rental Housing Advisory Committee. If I were to classify myself, I would see myself as someone who is vitally interested from a professional viewpoint in representing one of Canada's major builders.

Why did we get involved with RRAC? The major aim of the Fair Rental Policy Organization of Ontario is to create a rental policy that is fair and balanced and that will create a system that should work by itself without major intervention by government or anyone else. To achieve fairness, you cannot have unilateral action.

When FRPOO was originally formed, we realized that public education and dialogue among all sectors of the Ontario public, including tenants, landlords and government, was necessary to create an environment where Ontario's housing problems were better understood and we could create a will to solve them.

In the past, we ourselves and tenants have operated as virtual solitudes. We were all too busy establishing our own little beach-heads and negotiating positions to try to solve the problem in total. While we believed that a dialogue was necessary, we certainly did not have the power by ourselves to create it.

Then the challenge of the RRAC was thrown at us. This expanded our original thought of dialogue and discussion to a concept of direct negotiation with tenants on the items originally in Bill 98 and now forming the basis of Bill 51. It was a bold move, and I think everyone involved appreciated that the potential for disaster was enormous. As it turned out, the move worked, because, we believe, it has resulted in a compromise that is acceptable to the majority of tenants and landlords in this province.

At the outset, there was a great deal of reluctance among a large number of our members to participate in the committee. We felt we would be co-opted by the participation and we felt it would result in rent control being cast in stone for ever at a time when we should be pressing full force for gradual removal; but we came to the realization that the rent control issue was only the cutting edge of an unfair system and that we had to participate in discussion of that total system, starting with the rent control legislation.

The system as it stood made it impossible for industry to do what it did best: build and manage homes for the people of this province. If the system were fair, it would recognize landlords' basic need to earn a reasonable return, to have a stable environment, and it would encourage new construction and faith in government of a constant and predictable environment. It should also provide the bulk of tenants with reasonable rents and well-maintained buildings. We realize that is also the cornerstone of any system that works, because, without it, there will almost inevitably be political pressure to change.

The RRAC process was an invitation by government to explain our views to

tenants and to listen to theirs to see if we could work together to develop an approach that worked. We agreed to put in the effort. In the best tradition of the public service, it was without realizing the effort that would be involved. It was not an easy task.

However, I feel confident in saying there was one shared motivation among all the members of that committee, landlords and tenants, and that kept us at the bargaining table. Every individual on that committee wanted to develop a system that worked and one that was best for all the people of Ontario. The tenant representatives tried to put aside the politics of the moment in favour of the realities of the future. We did as well. There were pressures on all of us, though probably more so on the tenants' side, by organizations which could see only the positioning of today.

Eventually, we did arrive at a report. It was endorsed by all members of the committee except one. I must say I do not think any member of the committee was completely satisfied with the report, because it was exactly what it was intended to be, a compromise. I have read transcripts and media reports quoting members saying the bill is unacceptable because neither tenants nor landlords are fully satisfied with it. Again, I believe that proves the essence of the compromise.

We believe that, through the process, we have created a bill that does not try to treat the symptoms of the rental housing problems in this province. It attacks the basic cause of that imbalance. It protects the majority of tenants, while taking the crucial first step towards resolving supply. Equally important, it is not unilateral action. It represents a real and workable compromise hammered out by tenants, landlords and government.

The bill does not address a real problem, which is affordability. This is the 30 per cent of the tenants who, as you have heard time and again, have major financial constraints on their ability to pay rent. A simple reason it does not address that is that it was not part of the mandate. I am not sure whether I am volunteering to address that in the future, but it was certainly outside the bounds of the problems we were trying to solve.

Affordability for those in the lower end of the income scale must be addressed directly by government and not by interference in the market. That fact is obvious from the presentations this committee has heard.

In summary, this bill has the support of the industry, provided it conforms to the final analysis, to the RRAC agreement. The strength of the legislation and its acceptability will be found in the extent to which it adheres to the compromises in the RRAC agreement. We think it will work; we would like you to give it a chance.

I would like to turn you over to Herb Stricker.

Mr. Stricker: My name is Herb Stricker. Our firm, Heathcliffe Developments, has built and managed apartments for quite a few years in the greater Metro area and outside it to the east. We have not built in the past several years, but we are still around.

I have been in business for a long time. At one time, I owned, with partners, both pre-1976 and post-1975 buildings. However, I have sold all my post-1975 buildings but kept my interest in the pre-1976 ones. In my terms, Mr. Grenier, Mr. Goring and Mrs. Waese are relative newcomers to the apartment industry. Most of their experience and expertise is in post-1975 buildings.

Before I go further, I want to make my personal position clear in all the rhetoric about who is what and so on. I was better off before the government decided in 1985 to extend controls than I will be after Bill 51 as it is now is approved. In my opinion, the best piece of legislation you could bring in to solve the housing problem we are in is a bill that repeals controls. I know that is not likely to happen right now and that controls are to be extended. Under those terms, Bill 51 is the best of the alternatives available, with the amendments.

14:00

A lot has been said and written about controls and how they came about, most of it based on views that are prejudiced rather than factual. I remember the period leading up to controls extremely well. As a landlord, I was being pushed against a wall by financial and economic pressure I could do nothing about. Canada, including Ontario, was in the grip of double-digit inflation, and all the costs associated with building and operating apartment buildings were increasing astronomically. Examples were municipal taxes, energy, interest rates and wages. This was happening daily, whereas leases were for one and two years, so costs could not be passed on as they happened. Like other landlords, what I had to do when leases came up was first to catch up what I had lost and then to anticipate what could happen over the next year and try to adjust for it.

Even back in the late 1960s, we had a dramatic example of this when, in one year, municipal taxes in Metro increased between 16 and 19 per cent depending on the municipality. That was the start of most things, by the way. At that time, we had two-year leases. It created great uneasiness in our industry when, at the same time, Hydro decided that, in future, utilities should bill landlords for power rather than the individuals in the buildings. You know what the results were.

In the early 1970s, there were rounds of rent increases that Stephen Lewis dramatized, calling people like me gougers. We were not gougers. We were only trying to keep up with our costs. Up until that time, there had always been a large vacancy rate in apartments and competition was fierce. Controls were brought in and gradually the supply shrank. The controls did not cover all the increments that go to make up our rent. What I mean by that is that the landlords' costs were controlled but not all the increments that make up that, such as electricians and plumbers. Nothing else was controlled, just us.

From my viewpoint as a businessman, I want to relate to the committee the problem as I see it. The problem is low vacancy rates and affordability by 25 per cent of our population. Anyone who has an apartment generally finds it a bargain and has no incentive to move; so nothing is available for new potential tenants.

There has been a lot of talk about high rents. I can take you on a walk within about 10 minutes of here and find people in a one-bedroom unit paying \$450 a month. I do not say you can get one, but I can find people paying that. They are ensconced there. I can take you to a building I have in Parkdale. A small one-bedroom unit there is \$368 a month. I keep hearing astronomical figures; that is why I am doing this. A one-bedroom unit is \$450 a month and a two-bedroom unit is between \$525 and \$550 a month. That is existing people. I can take you to inner Scarborough where you can get a small bedroom for \$340, a large bedroom from \$395, a two-bedroom unit for \$460 and a five-bedroom unit for \$550.

I say "you can get." The people living in them are paying those rents, but you cannot get them now because there are no vacancies. I can take you to East York to one of our buildings. You can get a bachelor; people are paying \$280 a month. It is \$350 a month for a small one-bedroom unit, \$370 a month for a large one-bedroom and \$400 a month for a two-bedroom unit. I am pointing out that the things I see in the papers about rents are for downtown Toronto rents, not for Metro rents. It has always been that way.

We have only two vacant apartments for every 1,000 units here in Metro. Right now, there are only 176 unsubsidized rental units being built in Metro.

Another problem I want to talk about is the lack of income for landlords to allow them to maintain their buildings properly. You members of the committee have access to a ton of studies that indicate much of the pre-1976 stock of apartments is deteriorating. Sometimes, with painting, landscaping and carpeting, it is evident what the problems are. Many times, they are not as evident, with ageing heating and electrical systems, crumbling garages or tired elevators. It takes money to look after these things properly. Our system of controls is inequitable and unfair in its treatment of landlords.

Bill 78 would have seen many landlords lose everything and Bill 51, a result of the dialogue between the tenants and the landlords in the Rent Review Advisory Committee, represents the beginning of a return to common sense and fairness in my opinion. Considering the options, Bill 51 is about the closest thing to common sense we are liable to get in Ontario right now. That is why men and women like myself support this bill. Thank you.

Mrs. Waese: For your convenience, we are in the process of preparing and will be submitting an addendum to this general brief in which we suggest specific amendments and the rationale behind them. Each amendment is designed to have Bill 51 fully reflect the Rent Review Advisory Committee agreement.

It would be counterproductive for me to go through each amendment point by point. They are clearly set out and will be dealt with in this supplement. However, it would be useful to touch on some specific areas which have given the industry great concern over Bill 51. They are the creation of three separate and distinct classes of rental units and tenants, the residential complex cost index formula, the retroactive provisions of the bill, the proposed maintenance standard and the problems of those 30 per cent of tenants who are suffering affordability problems.

One of the most disturbing elements of Bill 51 is that it enshrines in law economic discrimination. It structures the rental housing industry into three distinct groups of buildings--those built before 1976, those built after 1976 and those built or to be built after 1986. A rate of return was recognized in Bill 51 for those buildings built after 1986 to provide incentive to developers to continue their efforts in the rental housing industry to alleviate the housing crisis. A rate of return was also recognized for those buildings built after 1976 as a tradeoff for removing their free enterprise ability and control of their business. The third category, those buildings built before 1976, have been singled out to carry the burden of subsidizing tenants.

As introduced in 1975, rent controls were intended to be short term and, as a result, paid no attention to the requirement for landlords to earn a rate of return. Those buildings earning a rate of return in 1975 found that return frozen in place; then it gradually diminished over the next decade as rent controls allowed only increased costs to be recognized. Those buildings which

were not earning a rate of return found that lack of return also frozen.

In Bill 51, section 88 addresses the plight of few or none of the landlords in this category. The stringent qualifiers for chronically depressed rents afford few landlords the opportunity to maintain their property in the manner Bill 51 suggests. Landlords of pre-1976 holdings cannot understand why they should be discriminated against and why they should not also have the ability to earn a rate of return rather than having the government discourage their long-term ownership.

We ask for simple fairness and equitable treatment, nothing more. We realize the political difficulties any party faces when the discussion turns to controls. Some of the speakers before me have stressed that common sense usually wins out in the long run. Fairness usually does too, and that is what we are asking for.

I would now like to discuss the RCCI formula, our second area of concern. In many ways, RCCI is the heart of Bill 51 and the heart of the RRAC agreement. Any attempt to reduce or alter downwards the RCCI formula will destroy the potential benefits of this bill. There are opponents of this bill that suggest RCCI is a mechanism to put more money into the pockets of landlords. Such statements may be effective emotionally but fall into the same distasteful category as racial, sexual and religious slurs. They are based on an appeal to prejudice and stereotyping.

Investing in and operating apartment buildings is not a sure way to riches. If it were, buildings would not be trading at between \$20,000 and \$30,000 a unit when the replacement cost is \$75,000 a unit.

Consider too the evidence you have heard from smaller landlords. They represent the bulk of Ontario landlords. There are at least 350,000 grade-level units, which generally mean apartments in single-family homes or duplexes.

14:10

The most important element of the residential complex cost index formula is not what it does, but what it stands for. It is a simple statement to investors and landlords that the government of Ontario recognizes a need for a system that reflects changing economic circumstances. In times of high inflation, RCCI provides protection for tenants and motivation to managers to be effective. In times of low inflation, it represents a small catch-up factor for the landlord at a negligible cost to tenants.

Please try to put RCCI into perspective in your deliberations. If RCCI produces a 5.2 per cent rent increase this year instead of the arbitrary four per cent figure, that means \$6 a month extra on a \$500-a-month apartment. That is two large packages of cigarettes a month. That is what those very vocal tenants' groups have raised time and again. Of course, millions into landlords' pockets is a lot more dramatic than rent increases equal to two packs of cigarettes a month.

Compare that cost with the benefit. If RCCI produces 3,000 more units in Ontario, that is 3,000 more families with homes. It is at least \$250 million in new investment, employment for 1,000 men and women, an increased tax base and multiple spinoff benefits. That is an appropriate summary of the RCCI situation and puts the discussion in the proper light.

Before leaving the topic of RCCI, I must personally say that it is not enough for landlords to recover from the years of 12 per cent inflation and six per cent rent increases. However, it is the bare acceptable minimum if you truly hope to encourage new investment and new supply.

The third point I want to make is retroactivity. Successful management depends on the ability to plan effectively. This is especially true in the development and residential management field. We regularly deal with significant commitments of funds and time. We operate on decades rather than days, and on generations rather than weeks. Try to imagine the frustration of a major landlord who has developed a 10-year plan to maintain and upgrade his properties based on government commitments to a certain level of rent increases a year and the treatment they are afforded. He commits the funds and begins the project, only to find his rent increases arbitrarily reduced. The result is trouble for both tenants and landlord.

Right now, the situation landlords and tenants alike face is that they do not know what rents to charge or pay when leases come due. Chances are, whatever they do will be wrong. My understanding has always been that legislation should cure more problems than it causes. My very great fear is that unless Bill 51 is amended to remove the retroactivity clauses, it will result in a bureaucratic muddle of massive proportions.

The fourth major point I would like to bring to your attention on behalf of the Fair Rental Policy Organization of Ontario is the proposed maintenance standard. We have four major concerns with the approach of Bill 51 in ensuring proper maintenance is carried out in Ontario. First, maintenance standards should be province-wide and should be minimums rather than maximums. If minimum provincial standards are set, the bulk of Ontario landlords and tenants will be treated equitably and landlords and tenants will be able to achieve the end that Bill 51 seeks--the restoring and upgrading of our housing stock.

Second, as Bill 51 now envisages, municipalities must not become the enforcers of maintenance standards, thereby creating disparate levels of enforcement throughout the province. There is a real danger that the enforcement mechanism intended to be applied uniformly will become a localized political football.

Third, the proposed maintenance board should not become maintenance police. The Ontario Home Builders' Association warranty program has proven that a standards board run by and on behalf of an industry is an effective means of ensuring quality within the industry.

Fourth, the wording of the legislation must recognize the rights and responsibilities of landlords to manage their buildings, while at the same time encouraging discussion between tenants and landlords on capital expenditure issues. Management decisions must remain the sole province of the landlord, but we recognize that dialogue is essential.

By nature, tenants have a very subjective agenda. There is nothing wrong with that. If they are going to pay out money for rent each month, they want to pay for things that immediately and materially affect them. Their goals and their agenda are basically short term, though. Their unit is of value to them only as long as they live in it.

The landlord, however, is in a different position. He or she must think of the building as a whole and, with all the objectivity possible, must set a priority for maintenance and capital work. The integrity of the structure must come before such considerations as hall carpets and new paint jobs. It is sometimes difficult for tenants to see this point of view. An exaggerated example is the case of the ground-floor tenant who is unwilling to pay for the roof repairs because they do not affect him personally.

I want to incite the sensibilities of this committee by making the argument that landlords have the right to act unilaterally because they own the building. That case is insupportable because any time the rights of one group come into conflict with the rights of another, unilateral decision-making will only make the problem worse.

What we ask for is rewording of the legislation to encourage discussion between tenants and landlords, while preserving the landlords' right to carry out necessary work. Ensuring that discussion takes place, however, is essential.

Finally, I want to talk about something that is not in the bill, that is, relief for those who cannot afford the rents they are paying now. The problem is multifaceted. As you have heard all across Ontario, the problem is not so much that there are no affordable units out there, but rather that those affordable units are being occupied by tenants who are paying less than 20 per cent of their income and could well afford to pay more and live elsewhere.

This is a direct result of controls. Since it is the policy of this government to continue controls, those units will stay in the hands of people who least need protection. Bill 51 will not provide resolution to the problem of affordability for those people in need of support. If they cannot afford their units today, Bill 51 will make the problem marginally worse, but so too will the proposed alternative of a four per cent increase.

FRPOO feels the problem of the economically disadvantaged must be addressed, but not in Bill 51. We have proposed a variety of solutions in the past and we are willing as an organization to participate in any process that will help disadvantaged tenants.

That concludes my portion of the presentation.

Mr. Grenier: Mr. Chairman, ladies and gentlemen, that reflects an overview of the industry's position on Bill 51. To put it succinctly, we ask that common sense and fairness prevail. Landlords and tenants need not be in conflict.

During the Rent Review Advisory Committee process, we negotiated what both sides felt was a blueprint that did minimum damage and provided maximum benefits to each side. We negotiated a compromise solution that would be of benefit to the bulk of Ontario's tenants and the bulk of Ontario's landlords.

What we ask from this committee is a fair and unprejudiced hearing in consideration of our views. We do not support any party or any one philosophy. We are not in that business. We want to build and manage residential rental units for as many people as we can.

If Bill 51 is passed in a way that reflects the RRAC recommendations, we think it will work. It will not work overnight, but you will see the results a few years down the road. What this industry needs more than anything else is a simple show of confidence. Show us that you accept that there is need and a place for private industry in residential rentals.

With that in hand, let me predict what will happen. First, the industry will build for the high end because that is where the market is, and it is the easiest one to service right now. As that market begins to fill, the stress will be on innovation. As sure as the sun will rise tomorrow, some bright young man or woman will come forward with a way to build, design or finance, and then projects for the lower economic groups will start going up.

There is proof of that right in front of your eyes in Toronto right now. Pick up any newspaper or any magazine and you will see downtown condominiums selling for less than \$70,000 and up. Five years ago that was not possible. What has made the difference? Oversupply at the high end and innovation.

Legislators have the duty to legislate, and it is an onerous duty. Laws must evolve to fit the times, and you people must surely feel the pressure to look forward in terms of this bill. However, there is one point I urge you to consider carefully during your deliberations. The laws of economics cannot be changed. The law of supply and demand must still be obeyed as surely as the law of gravity. I have a working familiarity with the latter, by the way.

Funds cannot be forced into losing economic situations through legislation. No amount of goodwill will cause funds to flow uphill. Good legislation, however, will create the atmosphere of confidence required to induce funds to move in the desired direction towards rental housing. This, surely, is to be wished by everyone concerned with this bill.

We will be pleased to answer any questions.

14:20

The Vice-Chairman: Thank you, Mr. Grenier and company. It was a good brief, summarizing your position. As you know, we have heard from other people in your organization throughout the province, but it is good to hear it from the head office. Concerning the law of gravity, I was tempted to make a citizen's arrest for that plane you absconded with one day a long time ago, but I would not want to do that. There is too much of that going around today.

Mr. Grenier: They will never catch me now.

The Vice-Chairman: That is right. You are long gone.

I do have a list, and Mr. Cordiano is first.

Mr. Cordiano: We have been told by some tenant groups that tenant members on the Rent Review Advisory Committee who were representing tenants were not truly representative of tenants' concerns. Do you have any response to that?

Mr. Grenier: Sure. We do not think it is true. Sitting on the RRAC and listening to the tenants who are represented, we found them to be people who seem to have an obsession with the rights, the supposed rights and, in some cases, the frustrations various tenants have felt and have been subjected to over the years.

To say that those individuals do not represent any tenant organizations, per se, is akin to saying the Blue Jays do not represent baseball. Maybe they do not, but they sure are part of it. They are probably not the best or the worst, but they are part of it. Those tenants who were there were representative, a good cross-section, and they fought tenaciously for what they perceived to be tenants' rights.

We may be more organized; our group may be broader in scope, but that is probably because we already have an infrastructure they do not have. They came from various walks of life in disparate areas, but they are representative and creditable representatives for their particular groups.

Mr. Cordiano: It has also been suggested that the ma-and-pa style of operation, the small landlord, may go the way of the dinosaur. Bill 51 does not address their concerns, and we have heard that throughout our deliberations.

Mr. Grenier: A lot of things will go the way of the dinosaur and a lot of things that should not happen do. I suggest when that happens, however, this province will be a lot poorer, not in small measure, but to a great extent.

If we allow only the majors to do the building, we will not do a good job of housing our people. That is because you can produce anything out of cookie cutters, and there is no question that we can produce 500-unit, 600-unit and 800-unit buildings. That provides a good standard of living, but once you take away the neighbourhood threeplexes, fourplexes and the fiveplexes, you destroy the very core of what rental housing is all about. I do not think it should happen. It will not happen under Bill 51. Remember that Bill 51 is not the be-all and end-all, and I do not know how many times we have to say that. We will not pass Bill 51, if it was passed exactly as it has been proposed, and have nirvana tomorrow. There will have to be some changes, and those changes will look after those small ma's and pa's.

Mr. Cordiano: Is there not a fighting chance, in your opinion, for the small landlords?

Mr. Grenier: Is there a fighting chance?

Mr. Cordiano: Yes, given some of the sections and provisions in Bill 51.

Mr. Grenier: I think so. Peter has a point he wants to make.

Mr. Goring: Heather also mentioned that concern. By and large, the small landlords have pre-1976 units and many of them were afraid of the system. Even though they could have had increases passed that might have been higher than the guideline, they stayed away from the system. We believe they are entitled to more relief than is allowed under the bill. We hope the simplification of the system in terms of the hearing process will allow them better access, if that is combined with a commitment to an education process. I think they will be helped but I do agree that some of them who need more economic relief are not yet covered and that we need to address that problem.

Mr. Jackson: Do you think this will happen in the future?

Mr. Goring: It is up to you guys.

The Vice-Chairman: How have we been doing so far?

Mr. Cordiano: I have one final question with regard to the maintenance standards board. It has been a major concern of members of this committee and we have had quite a bit of discussion on it. I think it is a vital component in Bill 51. Following the fact that you shed some light on what that really means in the bill and what you would like to see contained in the bill, do you think there will be agreement on the maintenance standards board by the Rent Review Advisory Committee with regard to how it is implemented instead of how it will work?

Mr. Grenier: It is unlikely, given the time constraints we now have that we are going to reach a solution on the maintenance board in its entirety. The last time I was here, I told you we agreed with 85 per cent. The composition of the maintenance board was one of the items we did not agree on.

We have moved closer to agreement. I think there may have to be the very thing we are here to discuss: the government stepping in and finally deciding how that maintenance board is going to be made up. From a landlord's point of view, we simply cannot agree to equal representation. In the analogy of the management-union scale, that would make a management unable, because of potential buildlocks, to manage the buildings, which is unacceptable.

Mr. Cordiano: So you are not optimistic at all that you can come to some agreeable outcome.

Mr. Grenier: I am not optimistic that we can get a solution before the bill hits the House. We may be closer than we were before, but I do not think we are there yet.

Mr. Cordiano: We still have an opportunity to work that out.

Mr. Grenier: Yes, we still have some time, but we are not there yet.

Mr. Cordiano: As I see it, one of the tradeoffs for tenants is the fact that they will get proper maintenance of their buildings.

Mr. Grenier: We are not against proper maintenance. Do not misunderstand. Maintenance of our buildings is more dear to us than it is to anybody else. We are the last people who want to see the buildings going downhill or being shoddy. They are our buildings. We paid for them and we have to pay the mortgage. We are very interested in good maintenance. Our problem is, at what point do we have to acquiesce to the tenant who wants the hall painted instead of the furnace fixed?

Mr. Cordiano: I am sure there are a number of discrepancies between tenants and landlords as to what should happen with maintenance. We have heard some real differences of opinion, obviously, but we have been told there is some room to work these things out. I hope the RRAC will come to some of agreement on that.

Mr. Grenier: Believe me, nobody wants it more than us. We want agreement as much as anybody, certainly as much as this committee. If we cannot achieve it, we cannot achieve it, but we sure are striving, and so are the tenants, to be fair. They are trying very hard as well.

Mr. Cordiano: Thank you.

Mr. Grenier: We will continue meeting on that point.

Mr. Gordon: Mrs. Waese, if I heard you correctly, you said a good strong residential complex cost index is going to mean 3,000 more subsidized units. Did I understand you to say that?

Mrs. Waese: Not subsidized units, but 3,000 more rental units in Ontario.

Mr. Gordon: Where are these rental units going to come from? Are these nonprofit units we are talking about or are they 3,000 units that the industry is going to build?

Mr. Grenier: I think that was taken out of context.

Mrs. Waese: I was talking about the difference in dollar amount between the four per cent currently allowable and the potential if it were to be calculated at 5.2 per cent. The dollar amount saved would be enough to produce 3,000 more rental units in Ontario. That was taken from a study done by Enid Slack for the Thom commission. She was not referring to the difference between the residential complex cost index and four per cent, of course; it was not in existence then. She was referring to the dollar amounts that would be required and what could be done with that money instead of a very elaborate rent review system or the type of increases that have been allowed landlords.

14:30

Mr. Gordon: Are you saying that with the amount saved because of RCCI, the development industry would be in a position to build 3,000 more units?

Mr. Grenier: If you took all the money, the difference saved, you would be able to build--

Mr. Gordon: This is the first time we have heard any suggestion to build.

Mr. Stricker: As a landlord, I am about the only one the rent control system does not allow to accumulate money to get the equity to build another building. If I were a furrier, a goldsmith or anybody, I would be allowed to make the money to get the equity to build. Under the system we have now, I am not entitled to get any extra equity, so I cannot build the next building. Until you devise some system by which I can make some money to get equity to build another building, landlords cannot build.

Mr. Gordon: So you are saying--

Mr. Stricker: This will help.

Mr. Gordon: --that if we have RCCI, the landlords in the province will probably build another 3,000 units?

Mr. Grenier: No. It is an illustration; it is not 3,000 more units. It simply shows that if the RCCI formula were applied rather than the four per cent, there would be sufficient additional money that would represent 3,000 more units. It does not mean anybody would go out and build them.

Mr. Gordon: I just wanted to check, because I thought this was the big breakthrough we were waiting for.

Mr. Grenier: No. It is the same as the cigarettes; it is only an illustration.

Mr. Pierce: Put those on top of the minister's housing units and we are well under way.

Mr. Gordon: I thought maybe you had taken a first step and then decided to run.

As my second point, did I understand you correctly to say that you would be introducing some amendments you would like to see?

Mrs. Waese: Yes. We are in the process of preparing a list of amendments in which we will illustrate the Rent Review Advisory Committee comments on those sections of the bill, what our comments are and what the bill to date expresses. Drawing those comparisons, we make our own suggestions to the committee in preparation for the clause-by-clause analysis into which you are about to enter.

Mr. Gordon: In other words, we are not looking at anything that would upset the delicate balance we have been constantly told about as we travel around the province?

Mr. Grenier: No. It is to get closer to the RRAC formula, because the bill as it stands does not reflect the whole RRAC formula.

Mr. Gordon: Do I take it correctly that if one of us were to propose one of the amendments that you did not achieve within RRAC, this would not upset the balance?

Mr. Grenier: Not necessarily; it might bring it closer.

Mr. Reville: Even more delicate.

Mr. Gordon: If we were to put forward amendments that were not yours or the tenants', we would be upsetting the delicate balance. Is that correct?

Mr. Grenier: What was the question?

Mr. Gordon: The members have heard this before so we may as well get down to it. If I were to put forward an amendment that was not your amendment nor was it necessarily a tenant amendment, it would upset the delicate balance; but as long as I accept your amendment, it does not upset the delicate balance.

Mr. Grenier: Not necessarily. You may come up with a good idea. On the other hand, you may come up with a really dumb idea.

Mr. Gordon: Sure. I grant you that.

Mr. Grenier: If it was acceptable to both the tenants and the landlords, it may be a very good idea. On the other hand, it may be unacceptable to both, in which case it might be a very dumb idea. It could be either one, and it does not necessarily have to come from you or any of us. It could come from anybody.

Mr. Gordon: But your ideas are the only smart ideas.

Mr. Grenier: No. I did not say that.

Mr. Gordon: By implication, you did.

Mr. Grenier: No. We have had some dumb ones too. They were thrown out by the tenants.

Mr. Gordon: We will not get a chance to see them.

Mr. Goring: Heather talks about lots of amendments, and we have been working in parallel in a lot of areas. You will find a lot of them have probably already been picked up. We are not suggesting there are 5,000 others hanging there.

Mr. Reville: First, I want to congratulate the Fair Rental Policy Organization of Ontario for the amazing effort it has put into these hearings. Clearly, it was a very strong organizing effort. Your organization was very strongly represented everywhere we went and there was a number of very thoughtful briefs. That does not indicate I agreed with them, but a number of the briefs were very thoughtful.

There was one curious element about all the briefs, though, and in some of the briefs it was even more dramatic than in others; that is, 98 per cent of the brief was devoted to a vigorous, or may I say even vicious, attack on the idea of rent control and then the two per cent, which sometimes was the last paragraph, said: "Please pass Bill 51 intact. It is a delicate balance." That struck me as a bit odd because clearly what most of your membership would like this committee to do is to receive this, not report this bill back at all and then put pressure on to repeal rent control. Can you explain the apparent inconsistency? Perhaps there is not any.

Mr. Grenier: I am going to take this on faith. You have probably never been in jail on bread and water, but if you had--

Mr. Reville: I am not going to speak to that.

Mr. Grenier: If you had been and somebody offered you two days at the beach and \$1,000 a day to spend, you might consider that would be better than bread and water. On the other hand, if somebody said, "We will let you out for a day and give you a square meal," that also might be better than bread and water. In the absence of the \$1,000 a day and the turn at the beach, we are looking for a square meal.

We would like to get rid of rent controls but that is not what you people are here to hear. You are here to hear about this bill, so I have to take a little exception when you say 98 per cent of the briefs said "Let us get rid of rent control." As a matter of fact, we have all the briefs and most of the Hansard reports. An awful lot of the briefs were in support of Bill 51, but they always made the point, the underlying theme, that rent controls are anathema to this industry and they are. We have been working on the bill, not on the end of rent controls. I can tell you, however, that the end of rent controls is most dearly to be wished.

Mr. Reville: I have heard 110 briefs from landlords. While it may be a bit unfair to say that 98 per cent of the briefs talked mainly about the hoped-for demise of rent control, that is a feeling that I think is shared by most members of the committee; there were these strange shifts towards the end of the brief, after landlords had screamed and yelled at us about how horrible

rent control was and then said, "Please pass Bill 51." We were puzzled.

Mr. Grenier: We have little alternative. We either have rent control or we have Bill 51.

Mr. Taylor: I want the record to show that I was not puzzled.

The Vice-Chairman: Thank you for that clarification, Mr. Taylor.

Mr. Reville: I remain puzzled about the 3,000-unit example that you attempted valiantly to explain to Mr. Gordon. I still do not quite get it. The difference between four per cent and the residential complex cost index somehow creates enough money to build 3,000 units?

Mrs. Waese: The comment was an analogy suggesting that the dollar amounts that could be counted on to calculate the difference between 5.2 and the four per cent allowed would be sufficient moneys to build homes for 3,000 families. We also suggested--which nobody else has yet--that it would be enough money to pay the salaries and employment for 1,000 men and women. Likewise, we suggested that moneys could potentially increase the tax base and other benefits. It was an analogy to draw what that money could possibly amount to and be worth.

Mr. Reville: So 3,000 units has no more significance than to say it would build seven eighths of the domed stadium, for instance.

Mr. Grenier: Similar to the two packs of cigarettes.

Mr. Reville: It would buy two packs of cigarettes for every tenant in the province? That would be a bad idea.

Mr. Grenier: That is right.

14:40

Mr. Reville: Are you talking about \$195 million, \$150 million or \$200 million? I must tell you the ministry has gone to some effort to try to say just the opposite: that Bill 51 actually saves tenants \$45 million. What you are saying is that Bill 51 generates between \$150 million and \$200 million. To whom does that go?

Mrs. Waese: I believe you are speaking about two different issues. I believe the money saved to tenants is in reference to the amount of money from eliminating any landlords who have a tendency or who have been enticed to take illegal rent increases. The difference between the statutory increase and the 5.2 per cent, the potential statutory increase, has nothing to do with the moneys we are talking about now.

Mr. Reville: Surely it is difficult to divorce the two issues, because if landlords are required to give some of that difference back to tenants, which this bill provides for--

Mrs. Waese: If they perpetrated an illegal increase, yes.

Mr. Reville: Perhaps this is one of the examples that is better not explained. I am having a difficult time. I agree with you. I think Bill 51 does generate something in the order of a couple of hundred million dollars, but I think that money comes from tenants and goes to landlords, and then I do

not know what the landlords will do with it. They may go to Florida because, having the square meal that Bill 51 gives them, they want to go and digest it somewhere warm. They may build apartment buildings. They may not. They may buy diamond rings.

Mr. Grenier: I guess it depends on whether we get Bill 51 or not.

Mr. Reville: You will get something like Bill 51.

Mr. Grenier: It depends. If we get something like Bill 51, it may induce us not to build at all. It may induce us to get out of the business. It is your beautiful, delicate balance again.

Mr. Reville: Getting right down to the crux and the nitty-gritty of this, I want to ask one question about the residential complex cost index, which you point out reflects changing economic circumstances. There has been a number of suggestions to the committee about how to amend the RCCI formula to make it less expensive. I will give you the three basic suggestions: to amend the RCCI formula so it becomes two thirds of the building operating cost index, to amend the RCCI formula so it becomes 75 per cent of BOCI or to amend the RCCI formula so it becomes 60 per cent of BOCI plus one per cent.

Each of those approaches is significantly less than would be generated by the RCCI formula as recommended by RRAC and as reflected in the bill. I think two thirds of BOCI would come out to about 3.2 per cent, if you figure BOCI is 4.8 per cent. I do not know. We have never really been told that.

The Federation of Ottawa-Carleton Tenants Associations suggested 75 per cent of BOCI as the guideline. I do not know where the 60 per cent of BOCI plus one per cent came from. I think that is about to come to us from the tenants' umbrella group.

Mr. Grenier: I am not sure of the question.

Mr. Reville: I know you do not want us to amend that formula. If by some fluke, though, the committee thinks the formula should be amended, can you tell us whether one of the principles behind your support of the formula is that it is related to the inflationary costs associated with operating a building?

Mrs. Waese: Yes, part of that.

Mr. Reville: You would want to keep the BOCI idea in there?

Mrs. Waese: Yes. It does more closely relate to the actual costs that landlords experience than does the cost price index, which relates to all sorts of costs that do not relate to the landlord. In that respect, its basis is of value to landlords, and we can appreciate that. In addition to that, I believe the rest of the calculation of that formula is for the purpose of encouraging landlords to maintain their buildings to a higher standard than they are currently doing, with severe penalties if they do not.

On one hand, the tenants are extremely anxious to see that all landlords who are not maintaining their buildings in the manner the tenants think they should be severely reprimanded monetarily and without the ability to make application to the commission. On the other hand, they suggest that they want to reduce the formula so the landlords should have less money to do this. Somehow, that is not balanced: If you want more, it costs more. If you expect more, landlords should be given more so that they can then produce more.

Mr. Reville: There is one case in which it is a balanced view. If tenants are of the view that they have already paid through their rent for a decently maintained building, why should they be expected to pay more to get something for which they have already paid?

Mr. Grenier: If that were the case, I would think your argument was correct; if that were the case.

Mr. Reville: The other concern I have is that because of the difficulty everybody has in designing a structure that will ensure the maintenance of buildings, the committee is not clear, and I understand RRAC is not clear, on how actually to deliver a system that provides for inspection, enforcement, a penalty structure I suppose, and an oversight structure. That is a difficulty for us.

If we adopted Bill 51 as is, we would have to ask tenants to pay in advance for something that is not worked out. If part of the residential complex cost index formula is to make it possible for landlords to maintain their buildings better, but if we do not have the structure which assures that this will happen, perhaps the RCCI formula should not come into place until the other system is in place.

Mr. Stricker: That is January 1, not now.

Mr. Reville: Do you think we will have to put our hands up on this before January 1?

Mr. Grenier: I would think so. The RCCI formula was developed before the maintenance board--

Mr. Reville: I understand that.

Mr. Grenier: It was not one tied to the other. The idea that there would be a maintenance board was a given and that there would be tenant representation was a given; the equal representation was not a given. I do not think the degree of maintenance is going to change; it is just where the emphasis is going to come from.

Mr. Jackson: My first question is, do you think rents are going to go up as a result of this bill?

Mr. Grenier: Yes, I would think so.

Mr. Jackson: Are you familiar with the minister's document that says tenants are going to save \$40 million over as short a time as two years as a result of this bill?

Mr. Grenier: I have seen it. I am not sure I am familiar with it, but I have seen it. Peter, do you have some background on it?

Mr. Goring: I have reviewed those calculations.

Mr. Jackson: What is your opinion of those calculations? Do you find them valid, supported?

Mr. Goring: Yes. In fact, I spent some time with some tenants on the other side. There are clearly some estimates in there, but I think equal arguments can be made that it slightly overstates or slightly understates the--

Mr. Jackson: Given that the Fair Rental Policy Organization has been involved in this process for a year now, how are we as legislators going to understand this? I just got two answers, I think.

Mr. Goring: No. Obviously, that calculation is based on some estimates. Nobody has gone out and counted every apartment building in this province and decided what is going to happen. I think the estimates and the basis of the estimates contained in that document are fairly reasonable and supportable.

Mr. Jackson: If you assume that most of the tenancies that are currently outside rent control are illegal rents, do you draw those kinds of assumptions?

Mr. Goring: No.

Ms. Caplan: That is not what he is saying.

Mr. Goring: All the buildings built since 1975 were not controlled either.

Ms. Caplan: The study is pre-1976.

Mr. Jackson: Okay, pre-1976. Mr. Stricker, since we are talking about your area of expertise, do you agree that sizeable rental savings will be achieved by tenants in Ontario under this bill?

Mr. Stricker: I do not know much about the bill; I guess the provincial people who put out that study should be the ones to comment. I understood they had said that, on the basis of the average in rent review hearings, this would make a saving. But I think the people who made that statement should be the ones you ask the question of, not us.

Mr. Jackson: So the answer is that you are really not sure whether the rents are going to go up or go down.

Mr. Goring: No; in the first year the rents are going up.

Mr. Grenier: They are not going down.

Mr. Jackson: Okay. We all agree now that rents are going to go up.

Mr. Grenier: There is no question.

Mr. Jackson: Very good. Do we have any idea of how much they are going to go up?

Mr. Grenier: The number we had come up with through the use of the formula was about 5.2 per cent or 5.3 per cent, in that area.

Mr. Goring: It is 4.7 per cent in the study, which is supportable. I have no trouble with the assumptions of the study.

Mr. Jackson: That is using the basic guidelines, but what about the other areas for economic loss, depressed rents and capital pass-through? What about those areas?

Mr. Goring: Capital pass-throughs would have happened under either

system. There is already provision in the act for capital pass-through.

14:50

Mr. Jackson: All right. Regarding chronically depressed rents, do you concur that only one per cent to two per cent of the units in the province are in a chronically depressed state? The committee was advised in hearings last night that the York University study advises it.

Mr. Grenier: I do not think we have that, Mr. Jackson. I know it has been under way for quite some time. We have not received the final, as far as I know. Mr. Laverty, have you sent that on to us yet? I have not seen it.

Mr. Laverty: We tabled the final York study with the committee yesterday. I understand that we simultaneously transmitted copies of that report from the corporate secretary's office to the members of the Rent Review Advisory Committee who were on the subcommittee on chronically depressed rents.

Mr. Grenier: To answer your question, Mr. Jackson, I have not seen it yet.

Mr. Jackson: You will recall that I asked you a question about why you have not taken the time to advise--when Mary Hogan advised us that she could find no evidence of chronically depressed rents in the province, I was absolutely amazed to hear it given that you had been sitting with her for nine months. Now I will ask you another question about chronically depressed rents. Do you find it unusual if one or two per cent of the units in this province are deemed to be chronically depressed?

Mr. Grenier: I think that one or two per cent may be on the low side, but without seeing the study I do not know. I would just be guessing.

Mr. Jackson: Have you abandoned the position of decontrol and/or shelter allowance?

Mr. Grenier: We, as an organization?

Mr. Jackson: As an organization.

Mr. Grenier: No, we have not at all.

Mr. Jackson: You have two concurrent positions.

Mr. Grenier: No, we have one current position, one that we have held since the beginning of our organization, which is that rent controls should be abolished. That is our position as an organization. As an organization, we are deeply involved in Bill 51 because it is a here and a now.

Mr. Jackson: You helped to develop it.

Mr. Grenier: That is right.

Mr. Jackson: We did not develop it. You developed it.

Mr. Grenier: We developed it because we had no option. We are in jail on bread and water. With no options, you tend to take whatever is offered you. Bill 51 is a procedure that was offered to us. We accept it and support it because we think it is a first step. Without that first step--

Mr. Stricker: Bill 78 is the option.

Mr. Grenier: Yes, Bill 78 was the option, which would have been even worse.

Mr. Jackson: You have two positions, one that is the world of reality and the other is what you would like to do in Utopia, but you are still holding both positions as I understand it.

Mr. Grenier: You do not change your beliefs. Our belief is that the free enterprise system will work better.

Mr. Jackson: What about shelter allowance?

Mr. Grenier: We think that will evolve and will have to come under Bill 51 or no control at all. That is also something that has to come. Shelter allowance is a requirement.

Mr. Jackson: How can you as an association participate in the advisory committee when we know that Bill 51 entrenches rent control even more? It might not be as financially punitive to tenants, but it would represent less overall regulation. Why would you participate in and embark on a course that leads to further controls? The reason I ask this question is that I attended every hearing outside this building on this bill. I have asked this question of everybody and I have got every kind of answer imaginable about decontrol on a regional basis and about shelter allowance.

Today I am talking to the organization that represents all landlords and I am finding it hard to know how you can represent your constituency and yet participate in a program that does nothing for supply, albeit increases rents to tenants, that will do nothing to help build the industry we desperately need more than anything else.

Mr. Grenier: I will ask Mr. Goring to answer the question, but I would like to give you a quick one. I do not believe the Liberals ever agreed with all the points they got into in the accord with the New Democratic Party. I believe their philosophy is fundamentally different, but in order to form the government, they did what they had to do.

Mr. Jackson: What are you talking about? They prostituted themselves?

Mr. Grenier: What I am saying is sometimes we have to accept less than we would like in order to survive.

Mr. Cordiano: You can say that about the Tories--

Interjections.

Mr. Grenier: That is why we can have two positions, the same as politicians can have two positions.

Mr. Taylor: That is not too bad if there are only two positions.

Mr. Goring: I think there is a very clear attitude that we need to face. The system is not working. No one has started any substantial residential buildings in this province since April 1985 and, in fact, a whole bunch have been lost while people were saying: "I do not know the rules. Maybe I had better turn it into a condominium or not start it, or not finish the building I was thinking I was going to start."

It is very clear that you cannot prove that the market system will work with support for people who need it unless the system is working. We believe this bill will start the system working, will start to get supply going and the system will be in somewhat of a balance so then, I hope, our position that the free market system works better can be given a chance to work. You cannot change anything abruptly and you cannot change abruptly out a system that we have now with 0.2 per cent vacancies and no construction starts. We see this as a necessary thing that we have to do to get the system working. It is very simple.

Mr. Reville: May I have a supplementary on that? Do you not see the essential contradiction in what you have said about the free "market system with support"?

Mr. Goring: No.

Mr. Stricker: I am one of the members of the committee who is not on the Rent Review Advisory Committee.

Mr. Goring: Bill 78 would have really put us out of business.

Mr. Stricker: Bill 51 is the alternative. Bill 78 is the only alternative to what you have given us here. You are discussing Bill 51. I do not see the dichotomy in us saying we are against rent control and trying to get a bill that is a little better than Bill 78, which would have put most of us out of business. I do not see the ambiguity there at all. Bill 78 was terrible. Bill 51 is better. No rent controls are better, but we are not asking for that now because we know you are not even looking at that.

The Vice-Chairman: Have you finished your questioning?

Mr. Jackson: Not yet, Mr. Chairman. Do not forget there are three jurisdictions in this country and several worldwide that have come to the realization that because of the acute supply situation, they have had to face that. It is apparent through this whole process of public hearings that the reality of that has not come home to our legislators. It is just awkward when the very group that must advocate that has taken up a different position and made it abundantly clear around this province that is not its position.

Mr. Stricker: I do not understand why you say we have taken a different position.

Mr. Jackson: I respect your statements. As a pre-76 guy, this bill screws you guys. There is no question about that.

Mr. Stricker: That is better than Bill 78.

Mr. Reville: Let us talk straight.

Mr. Jackson: My question has to do with subsection 75(2) of the bill with respect to the capital improvements in the second and third subsequent applications for a capital improvement. There is a calculation that subtracts 80 per cent of the previous order. Are you familiar with that section?

Mr. Grenier: Yes.

Mr. Jackson: As an exercise on the weekend, I went through a typical case of painting the common areas. As I worked this thing all out, you get a basic five-year recovery. This is in the first round you do this. It is straight recovery. It will take five years. I have done the financing charge, the recapture and it is passed on to the tenants. In five years, when I have to do the painting of all my hallways and my common areas, my painting costs virtually double, but I have to deduct 80 per cent of the previous order. I will not give you all the figures, because they would be meaningless to you at the moment. The recapture on that, give or take a year, works out to about 12.5 years.

That section does not serve the best interests of a tenant nor does it serve the best interests of a landlord. I see absolutely nothing of value with that recommendation. Why did you come up with the 80 per cent figure?

Mr. Goring: Two positions.

Mr. Jackson: What are they?

15:00

Mr. Goring: There are two positions. I will deal first with the concept that the cost no longer borne was part of the playing field we had to play on.

Mr. Jackson: Let me stop you right there. Part of the playing field we had to play on? What are you telling me? This was 20 people sitting around the room with a case of beer. Everyone is supposed to get along really well. What do you mean? Do you mean there were ground rules that said the bill has to go, period?

Mr. Goring: We had to recommend a bill within the framework of the broad government policy, sure. We did not start off saying, "Now that we are deciding what the bill should be, we will start by eliminating rent controls and spend six months discussing that and the tenants can discuss the fact that all landlords are--"

Mr. Jackson: There were a whole bunch of conditions before you guys even got to the table. That is fine. Proceed with the clarification of section 75.

Mr. Goring: This is relative to mathematics because, when it comes time to pay for that painting again, I have paid off the first round of painting. I am still getting the five, 10 or seven bucks a month I had to pay for it the first time. I can use that to pay for the 80 per cent deduction I am getting and I will get a full pass-through for all the excess costs.

We felt there could not be a full deduction because then there would be no incentive to do any maintenance. We had to find a middle position, where there was enough incentive to keep on maintaining but utilization of moneys previously granted to pay for costs that had been fully amortized.

The Vice-Chairman: We are running late.

Mr. Jackson: All right, I will go over the figures with you privately, thank you.

Mr. Pierce: I will direct my first questions to Mr. Stricker. I understand that in the middle 1970s you sold off all your buildings that were under rent control. Is that right?

Mr. Stricker: No. I built buildings after 1975 and sold all the buildings I built after 1975.

Mr. Pierce: All your buildings are under rent control?

Mr. Stricker: All my existing buildings are under rent control, yes. Do you want to ask me why I sold my buildings?

Mr. Pierce: I would like to know why you sold the ones that were not under rent control.

Mr. Stricker: Because the governments, particularly the federal government, have made it more advantageous for accountants, doctors and lawyers and those types of people to own a building than for me, a landlord.

Mr. Pierce: There was more money in it for you to sell your building than keep it?

Mr. Stricker: That is right.

Mr. Pierce: You also stated in your comments that in the Metro area there are only 176 nonsubsidized units being built now.

Mr. Stricker: That is the figure we understand, yes.

Mr. Pierce: Can you indicate here that, if Bill 51 was passed by early or late fall, more buildings will be built because of Bill 51?

Mr. Stricker: We are a group of builders who have been building for a long time. We are not all of the same mind as to whether we will build in the future. Bill 51 recognizes the person who built after 1975 more than the builder before 1975. The builders before 1975 who used to build all the apartments are being discriminated against. That is one of the things that was said.

When I see how this committee, the government and everybody else react, I will form my opinion about whether something might happen in the future or not. I will decide then whether to build or not. I also have to find out whether the mortgage companies will support me. I cannot commit myself until I find out what comes out at the end.

Mr. Pierce: You also have to weigh the factors that the Fair Rental Policy Organization of Ontario is striving towards the abolition of rent controls while the tenants' organizations are striving towards more controls.

Mr. Stricken: Absolutely.

Mr. Pierce: You will have to weigh those two factors regardless of what Bill 51 does for you.

Let me ask somebody else a question about retroactivity. I believe you made the comment that retroactivity in Bill 51 would create a bureaucratic mess. I think you use words stronger than that. You suggest the bill is very touchy at the best of times and any changes will create some real problems.

From the tenants' point of view, any change in the retroactivity would upset the delicate balance. Yet you suggest that is not a good passage in the bill.

Ms. Waese: I cannot understand why you would suggest that eliminating the retroactivity element of this bill would have any effect on tenants at all, except future effects in that they are already paying the rents that have been charged and for which notices have been given for all properties built after 1976. They will now force landlords to pay rebates to tenants if it were retroactive, or force them to justify rent increases for which they had given notice.

If we started from the day this bill became effective, the status quo would remain. New information, new rules and a new bill will start from the day it becomes effective. There will be no rebates owing. The tenants are out of pocket currently, where the landlords will be out of pocket and will have to start doing major calculations as to what moneys are owed and are not owed for what they can justify and what they cannot justify. They would also have to try to justify rent increases, forcing more bureaucratic situations for the Ministry of Housing to set up the applications to hear all these people who have to justify these rent increases. If it were to start effective the day the bill is passed, then everyone could proceed under the rules Bill 51 suggests, and history is history.

Mr. Pierce: I am sure you are aware of the presentations the committee has heard. I will not use the figure of 90 per cent, but a number of the tenants' groups have suggested that retroactivity gives them an opportunity and they would like to pursue it even further, so that retroactivity would go back to 1975.

Mr. Bernier: And further.

Mr. Taylor: Why not further?

Mr. Reville: It is retroactivity on all illegal rents--

Mr. Pierce: They see it as a wedge to be driven further into the bill.

Interjections.

Mr. Pierce: Let me ask Mr. Grenier a question with respect to the maintenance standards. If I heard you correctly, you said maintenance standards should be province-wide. Is that right?

Mr. Grenier: Yes.

Mr. Pierce: In an earlier presentation you recognized--and I would have to check Hansard--that there were different standards required because of the complexity of the province, different weather conditions and different climatic conditions, so that different standards would be required in--

Mr. Grenier: A different standard of building does not mean a different standard of maintenance. A clean hall is a clean hall whether it is in Sault Ste. Marie, East Podunk or downtown Toronto, but they require different standards of insulation, different standards of glass and that sort of thing.

Mr. Pierce: I just wanted clarification on that because I know last time you were in you referred to the different climatic conditions in respect to building.

Ms. Caplan: Mr. Grenier, the committee has heard differing views from within the industry about whether this bill will encourage supply or create the kind of climate where supply could occur. As the leader of your organization and having had contact with representatives from your industry across the board, can you tell us what you believe will happen as far as the creation of supply is concerned and what kind of support it would take within this Legislature to create that kind of climate?

Mr. Grenier: There are two things, Ms. Caplan. There is a fundamental point here. First, our organization does not represent every landlord in Ontario. We represent our members in Ontario, and that involves a couple of hundred thousand units. We think we represent the broad spectrum. We do not represent everything to the nth degree, but in the broad spectrum.

Second, this bill--and I choose my words carefully--as we have said before, will not come into place and instantly cause bulldozers to start digging holes. It is not going to work that way. The bill is only evidence by government. It is evidence that they recognize the simple creation of a law using a fixed number--eight per cent, six per cent, four per cent or whatever--is not the way to have rental accommodation run, but that it must be tied to some reality. It is so simple to say four per cent, but it does not work that way. Whether the number is the correct number or the procedures are the correct procedures to the nth degree is not the point. The point is, do the government and all three parties that made up our legislation recognize there is some reason to tie in rental housing with other factors other than by fiat? Do they recognize there is inflation? Do they recognize that buildings must be built, that it requires an inducement, that there is a profit motive? Is that recognized by the government?

15:10

If that is recognized by the government, from that point on, from the time that bill passes, at least then the industry can sit down and say: "We finally have their attention. They recognize there is more to it than simply saying four per cent."

There is more to it than simply saying we will have rent control. There are other methods that take all the factors into account. Once that is done, the industry can regroup and say to itself and to the government: "We have a system. It is not the best. Let us try to modify it until we get one that works."

This is not going to work overnight, but we now have the input of

tenants in a recognized procedure and method, which we never had before. We have the input of committees such as this, which is listening and doing its best to understand what the problems are. That has not happened before. This kind of thing is what is required to bring some confidence to the industry.

Whether this bill is the worst or the best that was ever brought forward really is not the point. The point is, it is a start. If it does not work, I can tell you the situation will only get worse and you may have to come back and redraft Bill 51 or whatever. You will need another bill if this does not work, because the housing crisis is not going to go away. That is the point of this bill.

Mr. Stricker: Can I add to that, as a developer? If, after all these hearings, it looks to me as though there is a future for me in the rental housing business, I will have to get the land first. I will have to get the zoning, because most of the developers have not had any land zoned for rental construction for the past year or two. That in itself is a one-year or two-year process except in some minor locations. I cannot go and buy land zoned for rental apartments almost anywhere now. Developers have not bothered to go through the process because they did not think it was worth while.

Ms. Caplan: My question to you is whether you would begin that process because you would have confidence in the climate for building. Do you think that will begin and we will see supply as a result of this bill?

Mr. Stricker: The answer is yes.

Ms. Caplan: The second question is whether your organization is committed to the ongoing process of consultation with the tenant representation and the government to come to the kind of delicate balance or consensus, or whether once you have this bill your first position of abolishing rent control will become the position and you will withdraw from the process of ongoing attempts to look into the future.

Mr. Grenier: Your first position is the right one. There will be ongoing dialogue, provided we are asked, obviously. That would be the idea. This is only the beginning, not the end. I venture to say that our organization would be more than happy to continue dialogue with the three political parties and with the tenants, because that is the only way it is going to be solved.

I want to come back to Mr. Jackson's point. We believe the end result of all this dialogue and of all the things we are trying to do will be that the requirement for rent control will become unnecessary. We think it will then go away. For example, if the vacancy factor right now were 10 per cent, rent controls would be a joke. You simply would not need rent controls with a 10 per cent vacancy factor.

Mr. Reville: When we get to 10, we will get rid of rent controls.

Mr. Grenier: With the ongoing dialogue, etc., it is very possible we could.

Mr. Jackson: Put the tenants on the minimum standards board 50-50.

Ms. Caplan: This is my last question. My colleague Mr. Jackson stated that you clearly have two positions. Would it be fair to say, and is this the position or the rationale for your support for this process and the

ongoing dialogue, that the industry as well as the tenant community--but the industry specifically--has recognized that you believe, given the support of all three parties for rent review, it is here to stay as an institution for some time and that the industry must work within that system? From what you have heard to this date there is little likelihood that any party will stand up and say it is going to abolish this system.

Mr. Grenier: Nobody has said it in 10 years, so we do not believe anybody is going to say it tomorrow; but we do think that with a demonstration of how the system truly works, it is possible that somebody will. We do not know now.

Ms. Caplan: So if all three parties, or a substantial majority of this House, were to support this bill, it would give you the confidence that we can proceed into the future and give us that security to encourage supply, encourage the kind of tenant protection and encourage the kind of industry confidence that would help to solve the problem we are facing today?

Mr. Grenier: I think that is exactly true.

The Vice-Chairman: On behalf of the committee, I thank you.

Mr. Bernier, we are almost an hour late and we really have to move on.

Mr. Bernier: I have a couple of questions.

The Vice-Chairman: You guys do not mind staying?

Mr. Bernier: During the course of the presentations across the province, we heard from some of your people that this bill would be around for about 18 months or so, that you could live with it for 18 months. Can you answer that, or was that just on their own?

Mr. Grenier: That may be in response to when the next election may be called.

Mr. Bernier: That is what it would really--

Mr. Grenier: I do not know; I am just guessing.

Mr. Bernier: I am trying to get some answers.

Mr. Grenier: It could be the likelihood is that there may be a new government in 18 months, in which case there may be some other changes that are as yet unknown. I would guess; I do not know, Mr. Bernier.

Mr. Bernier: Can you clarify the Residential Rental Standards Board? I thought I heard you say you did not want the municipalities involved in administering--

Mrs. Waese: That was part of our whole overall suggestion to you that a province-wide standard would be more consistent for all tenants to receive equal levels of maintenance at the standard that is established. If they were municipality oriented and if each one could set its own standard, we are suggesting pressures could come to bear on certain municipalities to have certain levels that would not be fair to the landlord who could be discriminated against because he is in a municipality that decides his exterior should be painted every three years while some other landlord is in a

municipality where it is okay if he never paints it. If there were consistent standards across the province, we feel it would be a more equitable method.

Mr. Bernier: But if municipalities administer the building code now, they have their own building inspectors. I wonder why you would take that position. I find it strange.

Mrs. Waese: Building codes were established for the health and safety of the occupants, and I do not believe the standard of maintenance or the maintenance board was established purely to take care of the health and safety of tenants; it goes far beyond that. If you were to discuss the health and safety of tenants and if that were strictly the rule that these maintenance standards boards would apply, then I do not think landlords would have any problem whatsoever. But we believe and feel it is likely that pressures will come to bear that the standard of maintenance go far beyond the realm of health and safety, and that is why municipalities would differ.

The Vice-Chairman: Thank you, Mr. Grenier, Mr. Goring, Mr. Stricker, and Mrs. Waese. Obviously, you have provoked a lot of questions and discussion. I purposely let it go long because I thought there were a lot of questions and discussion that needed to be vented by all the committee members, and we appreciate your input. Thank you.

I will call up Thea Adams. Please take a chair and start whenever you wish. Do you have a brief to give us, or do you just want to make it orally?

Ms. Adams: I just want to make an oral presentation.

The Vice-Chairman: Go ahead.

15:20

SCARBOROUGH TENANTS' COUNCIL

Ms. Adams: This is partly a joint presentation from the Scarborough Tenants' Council. My name is Thea Adams and I am a member of the council, which is a voluntary body of people in Scarborough trying to help tenants with rent review and other rental problems. I have been a tenant for 16 years, which was prior to as well as after rent controls, and I have resided in the same pre-1976 building for the last 10 years. I have read a lot of information on Bill 51 and I have read the government's interpretation. I have kept up with it in the media as well as reading information from the Federation of Metro Tenants' Associations. I have also attended several meetings sponsored by members and by Scarborough Community Legal Services.

I find the bill is very confusing to the lay person, such as myself, and it is open to various interpretations. Though the bill seems to have been born of a genuine idea to meet the concerns of both tenants and landlords, in reality I find this concept is a near impossibility to carry out because there are two factions of the population at extreme ends of the scale. One faction has been represented by the people who were before us. The landlords wish to make a maximum amount of profit on their investments and the tenants want to keep their rents to a minimum or affordable level. For an employee of the Ministry of Government Services, affordability is very important because we have also had restraints on our salaries in the past.

There are many positive points to the bill as a whole, such as the 90-day notice to tenants with all the landlord's material having to be

submitted by this time, thus allowing the tenants more than the 14 days they were previously allowed in some cases to prepare a defence. In my own case, our 14 days occurred over Christmas in December 1981 which, with all the Christmas festivities, did not leave us very much time to prepare our information.

Today I will narrow my input to only a few of the major concerns with Bill 51 and another member of the Scarborough Tenants' Council will deal with some of the others. My first concern is with the procedure. Personally, I have been to rent review twice: once in January 1982 and again in June 1983. I know the old way had its shortcomings but I do not see that the new procedure suggested in Bill 51 is better or even fairer to the tenants.

One of the main problems with the current system is the commissioners who were appointed by the government. Many of these commissioners have shown an inherent bias in favour of the landlords, especially one of the commissioners we had in Scarborough. I experienced this bias myself during the hearing with regard to our building in January 1982. During our hearing, a conversation took place between the landlord and the commissioner about the positive and negative points of stuccoing the side of the building versus using aluminum siding for the house of the commissioner's mother-in-law. That was during our hearing to determine a 22 per cent increase.

In the past, people who have been appointed commissioners knew very little about apartment living, which was even admitted at the hearing, and they had little or no relevant training in this area, or at least that is the way it seemed to us from some of the questions asked and some of the points brought up.

My big concern is whether the new officials, who will be part of the ministry, be the same as those who were commissioners. Will they be trained properly? Will they know something about apartment living or have they always lived in Rosedale? Since many of the decisions appear to be taking place behind closed doors, it will not be as evident as it was before that this bias is present and the tenants will not be able to do anything to correct the problem.

Will there be more than one official assigned to a city area? If there is more than one, will they all perceive and interpret the landlords' submissions the same way? Who will monitor this body?

The administrative review seems to be a rather lax procedure, a friendly and informal way to solve the problem of rent increases. The present system was very lax at the beginning and the tenants suffered, receiving rent increases of between 18 per cent and 50 per cent at the hearings. The tenants organized in Scarborough and fought to have the hearing process tightened. We fought for our rights and we got fairer hearings and rent increases that reflected what was really taking place in our buildings. Landlords were fined for not completing work orders; money that had been given for work not done was taken away. This happened in my own building. The hearing in June 1983 was far more just than the hearing of January 1982.

Still, there is some bias. As recently as the summer of 1986, we had commissioners who showed bias towards landlords and told people to move if they did not like the rent increases. Move where? As has been said before, the vacancy rate is low.

It is not realistic to have an informal procedure. Tenants and landlords

have always been and probably always will be in different camps concerning profits versus rent increases. What we need are formal hearings with strict, set guidelines that must be adhered to so that everyone receives a fair and just hearing.

The suggested new procedure forces tenants to seek expensive legal help at extra cost to help them prepare their written submissions to the administrative review board. Not all buildings are lucky enough to have among their tenants accountants, legal secretaries and lawyers so that their side can be heard justly. The landlord has all these people available and on his payroll, which is paid for by the tenants as part of their administrative cost. We are paying for legal advice against us and we are also paying for our own legal advice to fight these increases.

Most tenants find it much easier and not as intimidating to present these problems orally. In the hearing, a lot of things come out that may not seem evident from written submissions, which may be looked at in two different lights. There are a lot of honest landlords, but for every honest landlord there are a lot of dishonest landlords who present false bills. To this day, we cannot find seven extra refrigerators in our 30-unit building, which is not a large building to investigate.

The new system seems to involve a lot more paperwork. Whenever you increase paperwork, procedures slow down; they do not speed up.

At the appeal level, it says they "may" call a hearing. There is no guarantee there will be a hearing. This is open to bias and interpretation. What we need is one good hearing that is fair to both sides, where the information can be presented in an open manner.

The other area I would like to address is capital expenditures. Bill 51 allows some capital expenditures cost to be removed from rents, but only if the landlord applies for an identical capital expenditure previously allowed in an order and takes only 80 per cent of the amounts. Once a capital expenditure has been paid for, it should be removed from the rent, whether it is a repair or a major purchase.

15:30

We should be aware that there is an interest factor built in as well. It should reflect the interest rate that the landlord is actually paying now. For example, if you own a house and you get financing from the bank to put on a new roof, once it is paid for, it is paid for. You do not continue paying the bank 20 per cent of the cost for the rest of your life. If you buy a new stove, you get financing, and once it is paid for, it is paid for.

But tenants keep paying and paying for these items even though the items may have been paid for long ago. The landlord then goes to rent review and asks for more money to do something else in the building. His roof is paid for, so he has that amount of money. Now he is asking for money for something else. Rather than taking that money and applying it to the new capital expenditure item, he asks for money and usually gets it, because it is something the building needs and it is feasible. There should also be a built-in avenue for the tenants, so that once an item is paid for, it is automatically removed 100 per cent from the rent.

In Bill 51, as in the previous act, rents must always go up and up, even if costs go down or stay the same. This seems to be a little unfair or biased. In buildings where the mortgage is completely paid off, the landlord no longer has to pay a mortgage on the building. I am thinking of some of the buildings, such as my own, that were built in the 1950s. The mortgage has long ago been paid off; yet the mortgage cost is still built into our rents.

Tenants also have no say in capital expenditures; yet they are the ones who live there 365 days of the year and suffer the problems, such as no hot water every year at the same time of the year because the landlord repairs the system every year for five years instead of replacing it. Granted, it might mean a rent increase for us, but we would always have hot water. If he had replaced it in the beginning rather than repairing it year after year, it would probably have long been paid for by now.

You may have a stove that does not work properly, but you cannot get a new stove from your landlord because this year he has decided to paint the front lobby so that it looks nice. When you have company over for dinner, you have to allow for an oven that does not work and you have to jack up the temperature on your oven, but the building does look nice.

Last, I would like to comment on what Bill 51 terms a "chronically depressed" rent, which sounds to me like a terrible disease. It is, in fact, since it allows landlords a two per cent increase in rent to bring them up to par with other rents charged in the same area for no other reason than they are in the right place at the right time, not because they have done any work towards improving or even maintaining, the buildings. No concern is given to the fact that the building is not in the same good repair as the other buildings in the area.

No concern is given to the fact that the tenants of the building have organized and, successfully, legally and with a lot of hard work, have kept rents reasonable by going through the procedures set out in the Residential Tenancies Act. Then the rents in the building actually reflect the true rents to be charged. The tenants in the other buildings have not, for various reasons, organized and fought large increases, because it is not easy to get in a small, or even in a large, building, people from all different walks of life and with different very interests, but they have simply moved on.

Other landlords may have charged illegal rents, which is not always easy to prove, or the other buildings in the area may have been flipped over. In the past, the government has been very generous in its allowance for new financing. Tenants work hard, putting in many hours to keep rents affordable, but all that hard work seems to be going to waste in the light of chronically depressed rents.

There is also the point of limited-dividend buildings, of which there are at least 39 in Scarborough. These buildings were built with money given to the landlords at low interest rates, actually less than six per cent amortized over 50 years, on the condition that rents remain affordable. How does your formula for chronically depressed rents affect these buildings? Will the two per cent increase be applied to them, even though the terms under which they were granted do not allow for a two per cent increase if it brings the buildings on par with the ones with higher rents? They are supposed to have lower rents.

Chronically depressed rents will destroy what affordable housing is left. Although the government is putting money into building affordable housing, its idea of affordability varies greatly from tenants' idea of affordability. It was mentioned in the last presentation that a lot of people who live in buildings where the rents are lower stay because the rents are so low and that they do not want to move into houses. Most of them live there because they cannot afford to live anywhere else. Once the rent is paid, there is no money left over to save for a down payment nowadays. They may be single older ladies who cannot look after a house on their own, who live on a pension but do not want to live in subsidized housing.

Would it not be appropriate at this time to try to save the affordable housing that exists rather than losing it? When a building is for sale, the government could make mortgage money available to the tenants so they would be able to buy the building and keep the rents affordable. It seems quite obvious from hearing the last presentation that it will be up to the government to put money into more affordable nonprofit and co-operative housing.

Bill 51 has some positive features, but in reflecting on the bill, once more it seems that the onus and hard work is on the tenants to protect themselves from overinflated rent increases.

Mr. Hutchinson: My name is Gord Hutchinson. I am the chairperson of the Scarborough Tenants' Council. It may seem strange to you, but there are some parts of Bill 51 I think are very good. I will detail a few of them.

I will start with part I, section 5, which says in the case of a landlord who does not give proper notice to a tenant of a rent increase, the increase in rent is not allowed; it is void.

In part III, section 18, the landlord must, within 10 days, notify a tenant in writing of an application for rent review. This was not true before and is definitely a step forward.

Section 19 talks about sublets. There have been charges forced on a tenant by the landlord for advertising or documentation to change over from one tenant's name to another on some documents.

15:40

We are pleased that if a new tenant comes in and the landlord is going to rent review, the landlord will be required to advise the new tenant in writing of the fact that the landlord is going to rent review for an increase greater than the guideline.

In part V, section 63, we learn that tenants who have paid illegal rent for the past six years may apply for a rebate. We think this is great.

In section 64, in the same part of the act, if a landlord is late in filing the data required by the rent registry, he will not be allowed to raise the rent on units in the building.

In section 65, if a landlord fails to file the data required by the rent registry by January 1, 1987, he cannot apply for a rent increase greater than the guideline.

These are what we consider some of the positive things about Bill 51. I do not know how many times you have heard such things mentioned here. This is my first presentation to any government other than municipal government.

I would like to go to the negative side now. One of the things I want to object to strenuously is found on page 3 of the bill, which says, "'Services and facilities' includes, (a) furniture, appliances and furnishings." I object strenuously to the words "furniture" and "furnishings." Why do I do this? There is a landlord in Scarborough who evicts people from units, rents furniture from a company he also owns, puts the furniture in the unit and charges an illegal rent for that unit on a daily, weekly or monthly basis. At present, I have a friend from work who is living in one of these units. I can attest that this is a true fact.

I now move to part II, section 13. We, the members of the Scarborough Tenants' Council, request the government to clarify subsections 13(4) and 13(5). If a tenant goes for a rebate, gets \$3,000 from the landlord, but has requested \$4,500, it is our understanding of the legislation that he has to go to court to get the other \$1,500. We hope the interpretation of this part will not mean that if he accepts the \$3,000, the landlord or the administrator will consider this to be a final disposition of the rebate. We think it should mean that if the \$3,000 is given by the landlord, any figure more than that can be legally pursued by the tenant in court.

Then we go to part III of the act, section 18 and so on. Section 18 is the 10-day notice given by the landlord to the tenant once he has filed his application for rent review. We are very pleased that at the same point of filing the application for rent review, the landlord must file his cost revenues. This is a very good point.

I would like to give my interpretation of what should happen in the 90-day period. Let us say a landlord applies for rent review on the last day of July. By August 10, he should have notified in writing all the tenants involved in the increase greater than guideline. By September 19, the tenants' and the landlord's representatives should have been able to go to the administrator and see all the documents the landlord filed and talk over with the administrator what should or should not be allowed.

I would like to make one point about this. I have been to rent review twice in the past and we have requested a night hearing. We believe, because most people in apartments have daytime jobs, that administrators of this act should be available in the evening, so that those parents who are interested and want to contend with the landlord about the increase should be able to go to any hearing called by the administrator.

That is a 50-day total so far. There are 90 days. This gives the administrator the final 40 days to go over the positions of the landlord and the tenant group and to make his decision and, according to the legislation, bring down his decision before the first effective date of the new rent increase.

A little hammer is thrown into the works there. If either party presents more data and wants an extension, this can be granted. This is a 20-day period. I am not too sure how this would work, but it can be granted by the administrator.

Somewhere in the act is a place where notice by the landlord is given to an "apparently adult person." We object to the word "apparently." It is in subclause 20(1)(a)(ii). We feel it should specify a definite age and propose to you that the word "apparently" be struck out and the following be substituted: "The notice be given to an adult person who is 21 years or older."

Ms. Caplan: Gentlemen, the legal age is 18.

Mr. Hutchinson: I am aware of that, madam, but we feel that people 18 years of age, unless they are very mature, are not capable of knowing the seriousness of some of the documentation that comes through for a rent review.

In part IV, which is the appointment of the Rent Review Hearings Board, we feel the members of the board should include tenants who are very knowledgeable about rent review systems. We also feel the Rent Review Hearings Board should have night hearings as well.

In part V, there is a date in section 63 which, in our opinion, allows illegal rents before August 1, 1985, to become legal with this legislation. We strenuously object to that.

15:50

In the same section, there is exclusion of buildings with six units or fewer. We feel the legislation should have applied to all apartment units of any kind from one up.

In part VI, subsection 71(4), in the past at a rent review hearing a cost-revenue statement was the complete documentation of the landlord's cost. It does not say in subsection 4 whether this is going to be the way it is done in the future. We hope you will modify this subsection to make sure all costs are brought forward when a rent review comes forth.

Some years ago the former government started a commission of inquiry into residential tenancies. This ran for many years and, to the best of my knowledge today, it is still doing its job. It is in phase II as far as I know.

I have the report of phase I here. There were 65 resolutions put forth by Mr. Thom, and the only one that seems to have been adopted by the present government and the Rent Review Advisory Committee that was formed by the present government, was the rent registry. This particular one was recommendation 61. I am sure that if I took the time to study this report there would be more items from it that I would want to be included in Bill 51.

I would like to make a brief comment about the people to whom you listened previously. They said that if conditions were correct in all manner they would start to build homes. In my opinion, they would not be affordable homes. It is my claim that the rent for any unit built from now on is going to be a minimum of \$800 a month. I cannot afford to pay that. I think most of the people who are tenants could not pay that either. Personally, I think it is an irrelevant fact and, quite frankly, I do not think the passage of this bill will encourage people in the building area to build more units.

For your information, I have before me what is called the 1985 Housing Monitor. It was prepared by the Scarborough planning department. The only figure I am going to give you from it is the total number of apartments, individual units, in Scarborough at the end of December 1985. There were 57,458. That is a lot of apartments.

It is my estimation that perhaps fewer than 250,000 tenants live in apartments in Scarborough. It is also my belief that these people are just slightly under 50 per cent of the population. How many voting adults there are I cannot estimate, but there are a lot.

I think I have covered everything I wanted to cover so far. I cannot think of another thing to say. Are there any questions?

The Vice-Chairman: Thank you, Gordon. Mr. Bernier has a question.

Mr. Bernier: I want to thank Scarborough Tenants' Council for coming forward with some interesting points of view. I have one basic question and I am wondering whether you have given it any thought. During the course of hearings across the province, we heard suggestions that tenants should pay 25 per cent of their gross income for rent. That is low-income and medium-income people. How do you feel about that? Is 25 per cent too high, too low or unrealistic?

Ms. Adams: It depends on the wages people are earning.

Mr. Bernier: You know that Ontario Housing Corp. now has 25 per cent for rent geared to income.

Ms. Adams: I know they have rent geared to income. Through personal experience, I know it is not always exactly fair and just. I have a grandmother in that position. Every time she gets a dollar from the government, 50 cents goes to her rent. Once it all gets averaged out, she ends up with a 12 per cent increase. It is very hard to pay 25 per cent if you are making \$20,000. If you are making \$50,000--

Mr. Bernier: The low-income and the medium-income.

Ms. Adams: You are thinking of the low income. I do not think that is unrealistic. It is not so much that tenants object to high rent increases. It is just that in the past, speaking from experience, we are living in apartments where we live 365 days of the year. Granted, we see large rent increases but we do not see work done for these large increases. Time and again, the landlord asks for more money saying, "I cannot possibly manage this building." Then you are subjected to things such as no doorknob on the door in the hallway, the main door to get to the stairs. I live in a low-rise building. There are no elevators. It has been off for four weeks.

I do not think it is really a question of how much of your salary you are paying. If you were living in a building that was kept up, your floors were washed more than twice a week and things were repaired when you asked for them rather than needing months of threatening letters to get things done, the man has been granted the money by your rent increase to fix these things and yet they are not done unless there is a lot of hard work on your part. I do not think it is a matter of saying, "Yes, 25 per cent sounds good." If you are not getting what you pay for, I do not think anything is good.

Mr. Bernier: We have had landlords tell us they know of people paying only 10 per cent, 12 per cent or 13 per cent of their gross income. Some are paying as high as 27 per cent of their gross income. There is quite a spread. They say: "We would be prepared to go by their T-4s. If they would show us their T-4s, we would give them 25 per cent."

Ms. Adams: What difference does it make as long as they pay their

rent? What other industry guarantees--they build a building and automatically the government says, "Here is a four per cent increase for you." If you open up a store does someone says to you, "I am going to guarantee that you make four per cent"? It is a chance they take in a lot of cases.

Mr. Bernier: With a store you would make more than four per cent.

Ms. Adams: Maybe that is a bad example but in any other business--say you are starting up a business--

Mr. Bernier: Competition sets the amount of return.

Ms. Adams: Yes.

Mr. Bernier: Thank you for your comments.

Mr. Hutchinson: May I respond to that? I have always disputed it when people think we should be paying 25 per cent of our gross salary as rent. I personally do not agree with that at all. I do not pay my rent out of my gross. I pay my rent out of what I take home. That is my net pay. My net pay is roughly \$1,500 a month and I am paying \$455 a month rent. That is a lot more than 25 per cent. Nobody can ever convince me that the wording should be "of gross pay" because income tax, medical insurance and pension are taken off. It is the amount that I put in my bank account, the net pay that I take home every week, that I use to pay my rent. I strongly disagree that the wording should be "gross pay." It should be "net pay."

16:00

The Vice-Chairman: Mr. Hutchinson and Ms. Adams, thank you very much for your presentation and the discussion that ensued from it.

The Vice-Chairman: Michael Rose, please have a seat. Are you going to give an oral brief today?

Mr. Rose: Yes.

The Vice-Chairman: Fine. You may begin as soon as you wish.

MICHAEL ROSE

Mr. Rose: Mr. Chairman, I have some sympathy for the committee members, because I appreciate this is a very difficult and complex matter you are dealing with. I happen to know one of the committee members, who said he did not know I was the owner of 100 units. I want to assure the committee that I may own roughly half a per cent in one rental project in southern Ontario. I will talk a little bit about the perspective from which I am speaking and you will find that my perspective is one of a small--and I emphasize "small"--investor in the rental housing business.

I want to do four things. I want to tell you where I come from, talk a little bit about the goals and objectives of a good rental housing policy, share some thoughts and concerns I have about how those goals might be achieved and, finally, comment on Bill 51.

I think you will find that my perspective is a fairly common one in terms of my experience as a tenant or as a landlord. I have lived in Ontario all my life. During that period, I have been a tenant on four occasions.

Admittedly, that experience is not recent. I have been a home owner on three occasions, as I am at present. In only one instance, dating back to 1981, I was an investor in a small way in the rental housing business.

That is my point of view as someone who has invested something in the rental housing business. Without identifying it specifically, I want to tell you a little bit about the project, because it illustrates some of the concerns you have probably heard raised elsewhere. To me, it raises them in a very tangible way.

The project is in the greater Toronto area. At the time it was constructed, I was one of a number of limited partners who provided the funds to build the project. I know you have heard from a number of very large investors. I am sure you are also aware that in many instances behind those large investors is a host of small investors who, for whatever reason, have chosen to invest what savings they have or moneys they have borrowed in the rental housing business.

We do not make those sorts of decisions for altruistic reasons. We hope eventually to realize some return from those investments and we choose them because we think they are good investments when one considers risk and opportunity and offer the potential for a rate of return that is as good as, or at the very least competitive with, what can be done with invested funds in other areas.

I want to talk a little bit about the element of risk, because not having been at these hearings I do not know how often that has been mentioned. This project was not presented as a get-rich-quick scheme. There was a 10-year projection on revenues, which indicated that in year 9, for the first time, the limited partners would start to see some return on their investments in the form of rental income that exceeded the expenses of the operation.

We were cautioned that it could be an optimistic projection, because in the early days, particularly when an investment is made in, let us say, a redeveloping area of the city, it may take some time before the renting public accepts that as a good place to live. Therefore, we were advised that there may be additional cash calls if the projections do not prove to be accurate. I can assure you that I have received those additional cash calls, as has one of my colleagues in the audience. In other words, the point at which we will start to realize some return from that investment is still some distance down the road and the additional cash requirements at this point are still uncertain.

I want to tell you something else about the project. It was a multiple-unit residential buildings program, and MURBs are a much maligned thing. I do not have much experience in this area. It seemed to me that was a demonstration of a MURB project which was not a bad thing. I watched the project with a great deal of interest. The planning department apparently felt it was a good project. I noticed during construction--I went by there a number of times--it provided employment for a lot of people in the course of construction. I have toured the building since it was completed and it is a good building. As an operating building it also provides employment for a number of other people. I suspect the project was good for the banks, because I had to borrow money from the banks and I guess that is good for the banks and it is probably good for people who deposit money with the banks.

On balance, I thought it was the sort of thing that deserved to be encouraged. People like myself have to gauge whether they want to take the

risk and invest in that area or invest in something else. You might have anticipated it, and I will say something related to what the previous speaker said, this is what I would term the luxury accommodation area. The building is now somewhere around 90 to 95 per cent occupied. In speaking with the people who handle the renting, I find many of the occupants come from south of the border. It happens to be a location that appeals to corporations and they send people up here from Chicago, Dallas and other points. They are the ones living in the nice, luxury rental building which I happen to be subsidizing right now and in which I could not afford to live.

None the less, what happens with that building in the long term will not make a great deal of difference to my situation, but I have concerns about what is happening to the province's housing.

With that by way of background, let me talk for a moment about goals. A lot has been said about goals for housing in this province. I am starting with one premise and that is, the government is not really interested in becoming the builder of housing, whether it is affordable rental housing or other rental housing in this province. I continue to believe the government is serious about having the private sector play the major role in the provision of affordable family housing, affordable rental housing and other forms of housing.

Given that premise, there are a number of goals I am sure the government has in mind. One is retention of the existing stock of affordable rental housing. Second is the maintenance of that stock of rental housing in a reasonably good state of repair. The third one, again mentioned by other speakers today, is the matter of creating and maintaining in good condition additional affordable rental housing to meet both current and future needs.

In talking about those three objectives, I have said "affordable" three times. On that basis, I suggest it is implicit that for those goals to be achieved the renters of the province have to be fairly served. I also suggest that if those goals are to be achieved, those who invest in the rental housing industry must have the opportunity to realize a competitive rate of return on those investments. I mean competitive in terms of what they might realize if they invested in other areas, taking a lot of risks into account. I realize there are other goals but I see those as the principal ones.

I suggest there are not a great many people in this province who would disagree about those goals. I also recognize that if one tries to make them more explicit and starts the difficult task of defining affordable and a fair rate of return and so on, that is one hell of a job and you have wrestled with it for a long time now. None the less, in general terms, I think those are goals that are solidly supported throughout the province. It is more difficult, though, to reach some sort of consensus or agreement on ways by which those goals might be achieved.

16:10

I have some suggestions I want to offer in that regard. I hasten to add I do not have any answers and I am sure you did not expect that. We all have a lot of problems. We do not have too many answers at times.

You recognize the complexity of the issue, and it is quite apparent, even in what we see in the daily press reportings of what happens at this committee, that it is an extremely complex matter and it will take a fair

investment in time to resolve it. One suggestion I offer--and I doubt if it is the first time you have heard this--is it would be appropriate to look at some form of interim solution to buy some time so that a long-term solution to the problem can be developed.

Also by way of suggestion, I mention the old adage, "Do not use a shotgun when a rifle will do." When you look at luxury rental housing in this province--and my definition would be anything from \$750 a month up--it seems to me that, by and large, the forces of the marketplace have worked fairly well in that area. I doubt whether you have had many disgruntled tenant representations from that sector and I doubt whether the landlords and the investors are unhappy with what has happened in that area. It raises the question in my mind, "Do we need to look for a solution to the housing problems in this province which touches on every part of the housing business, or should we narrow our scope somewhat and concentrate on the area where there are real problems?" Again an old adage, "If it ain't broken, why fix it?"

I want to talk for a moment about investor confidence. I suggest investor confidence is very much like a government's or a person's credibility. Once you have lost it, it is very difficult to regain it. I suggest that happenings of the past year or so have shaken the confidence of investors in this province very badly, and I speak here, of course, of people like myself who might invest in the rental housing business in a small way.

Around 1976--you will know the date--we had a government which introduced rent controls. My recollection is that at the time it introduced those controls, it was a temporary measure. They certainly made it clear that the so-called luxury units, those above \$750-a-month rental, and units constructed after that magic date would be exempt.

The housing industry--and I was not involved with it at that time--seems to have taken that message in good faith and continued to build at least some housing in this province, probably geared to the upper end of the market. None the less, it was doing so and the people who invested in those projects were doing so on the basis of a set of ground rules, namely, the particular projects were exempt from rent controls.

It seems to me to be very damaging to the credibility of any government if it changes the rules of the game in midstream. During the course of my working career, I have had some experience in the collective bargaining process on both sides of the table--not at the same time, of course. There is a parallel there that does not seem to be recognized when the government looks at legislation to deal with housing; that is what used to be termed "a grandfather clause." I guess today it is a grandperson clause.

One of the ways in which the government's credibility would be enhanced would be if it at least recognized that there was a set of ground rules that have been in place and people have been making their investment decisions on the basis of those rules. If it were to change the rules, some special provision should be made to cover those situations. I know there are some provisions in Bill 51 which attempt to address that, but I question whether they go far enough.

I also think it would be useful to be realistic about the cost involved and recognize that there will be a very substantial cost if there is government intervention in a large way in this area or any other area. The cost is borne by two sets of people: first, the taxpayers, who have to pay for

the establishment and maintenance of an up-to-date rent registry and for the staff involved in assessing applications for rent increases and arbitrating disputes between landlords and tenants; and, second, the tenants, who are also taxpayers.

The latter are doubly burdened because the owners or landlords, quite appropriately in my view, look at the cost they incur in running the business. If that cost involves hiring a lawyer to attend a hearing to make representations, that is part of their cost of doing business and they will recognize it as such. If they can manage it, that will be reflected in the rent. There is a great deal of merit in and, at times, need for government intervention, but it should occur only when and where it is really necessary.

I want to make one other comment about the tenant-landlord business. I mentioned I have been both, as probably most of the people in the room have. I only heard a few speakers, but I have read a lot of accounts, some of which may be very accurate and others not. One gets the impression that tenants and landlords are always at war with each other, but I never found that to apply in my experience. I cannot think of anything in the accommodation area and in the basic needs area that a tenant appreciates much more than a good landlord. I guess I was fortunate since I had four good landlords out of four shots.

Likewise, I do not believe there is anyone a landlord appreciates more than a good tenant. I suggest you do not hear from very many of those people because they do not have a bad go of it. They get along with each other and they co-operate with each other. You hear from the people who are having problems and those problems are real, but there is another large group of people in this province who seem able to deal with each other in a fair and reasonable fashion. It is useful to recognize that as we look at this.

The last suggestion I will make in a general sense is to urge you not to rule out the possibility as a long-range option of being able to satisfy our province's rental housing goals while still managing to phase out rent controls. I know that has been said many times before. A lot of hard work has been done in this area. There is a lot of creativity, imagination and dedication shown in the work that brought you to this point. I believe what is needed is more time to pursue this and to come up with a long-term solution.

That means you need some sort of interim solution, and in that sense I will now turn to Bill 51. I do not profess to know the bill in detail; I have not read it through from cover to cover. I do know I have to applaud the Minister of Housing (Mr. Curling), the staff working with him and the tenant and landlord representatives who served on the RRAC. I cannot think of a more formidable task than getting a group of people together like that and seeing them able to come out of a lockup, in effect--as I understand it, that is what it was down in St. Catharines or Niagara, or wherever they went--having come up with something to which they were all prepared to put their names.

After that happened, a lot of people, some representing tenants, some representing landlords, took shots at Bill 51 and said, "We do not think this is a good thing." To me, that suggests maybe it is not a bad thing, at least as an interim solution. Again, the only experience I can draw on is my experience at the bargaining table where, if you signed a memorandum of settlement and both parties left the room muttering to themselves and thinking, "Gee, you know, it was not that great a deal, really; we should have got a little bit more," chances are it was not a bad agreement.

Bill 51 may not be perfect, and you are hearing a lot about perceived imperfections, but I am suggesting that when both parties, upon reaching the conclusion of their talks, say, "We have something in Bill 51 that we can live with," it is probably pretty darn good.

I urge that Bill 51 be supported. It seems to me a good interim solution to the problem and, if used in the proper way, it could allow something else to happen.

Coupled with the consideration of Bill 51, I hope this committee will consider the notion that you should outline and set in place a process with time lines whereby you would go the second mile and come up with a long-range solution to the matter of providing rental housing, both affordable and otherwise, in this province.

I leave those thoughts with you, Mr. Chairman and members of the committee, and I appreciate having had a chance to share my views with you.

The Vice-Chairman: Thank you, Mr. Rose. There is a question from Mr. Reville.

Mr. Reville: I want to start by commenting on the thoughtful presentation, but I did not expect anything else from Mr. Rose.

I caution you against expanding too much on the bargaining table analogy. It breaks down in this case because one of the parties was unable to get a ratification vote after the agreement was reached, which is fairly essential in the bargaining process.

Let me make just one comment on your notion that we might have exempted luxury housing. That has been suggested to us by others and, at first blush, it seems like a good idea because there is normally a fairly good market response to housing at that level. If you cannot rent it for \$2,000, then you rent it for \$1,500. Normally, people who are poor are not trying to rent it for \$1,500.

However, we have found that if you establish a threshold beyond which rent control does not apply, then owners try to get over that threshold in all sorts of ways. We have experienced a lot of that in the past 11 years, and quite a large number of units have managed to get over the threshold.

The other thing which I cannot find anybody else in the world to agree with me on--it is an opinion of one--is that housing is not a commodity such as cigarettes, an automobile or even food, because it has so much of an impact on your life. If you do not control the rate at which the charge for your housing increases then, as an occupant, the option you have is to move, and that is a very disruptive routine. When I cannot afford steak, I buy hamburger, but I always have to live somewhere and I may not have the same type of choice.

Given that you could create a system where the landlord could get a reasonable return--and I am not sure that this does it exactly--you would still want a system that regulated the amount by which the rents increased.

I can only reflect that when the world monetary market started increasing the cost of money in general, we had a lot of talk from home owners who wanted to know when somebody was going to control the rates at which

mortgage rates could increase. There is a fairly common thread among people, generally, that you need some certainty and respect for your housing situation, whether you are an owner or a tenant. That is my comment in response to your comment.

Mr. Rose: May I offer a comment, Mr. Chairman?

The Vice-Chairman: Sure.

Mr. Rose: I have a couple of things. First of all, I am not sure I totally agree with the analogy to food and housing; obviously, we need them both. People do have some say in what they will do when they are dealing with their housing needs. I would much prefer to live in the city of Toronto than in Scarborough, where I live, because I have to work downtown in Toronto. I would like a house that has a certain number of rooms, certain amenities. I cannot afford to buy that in the city of Toronto, so I have a choice to make. I can either live in suburbia and do the commuting, which I abhor, or I can settle for something less in the way of accommodation and move downtown.

Years ago when I was renting, I rented in suburbia for the same reason. People should recognize they do not have any inalienable right to live in a certain part of the city. If one part is expensive, there may be some part that is less expensive.

The other comment relates to thresholds. For a long time, we had a fixed threshold. There might be some mechanism by some sort of adjustable threshold, geared to the inflation index or something of that sort, that might deal with that problem.

I said once that I do not have any answers, and I do not. You people have studied this a lot more than I have, and I do not think you have got all the answers yet. Although it is a horrendous thought, I am sure, for a lot of people who have been involved to this point, the investment of a lot more time is required if you are going to come up with solutions which will serve this province well in the long term and encourage even small investors like myself to say, "Hey, this is not really a bad place to park a little bit of capital for investment reasons rather than buying Canada Savings Bonds or something of that sort."

Mr. Reville: Thank you. I am sorry I made a speech there, but I have talked to Mr. Rose a number of times over the years--

Mr. Rose: Never about housing.

Mr. Reville: Actually, we did talk a lot about housing, if you recall the Oak Street project. I understood exactly what he said, so I did not have any questions.

The Vice-Chairman: Mr. Reville, you never have to apologize for your eloquence.

Mr. Reville: Not to you, anyway.

The Vice-Chairman: Thank you very much, Mr. Rose. We enjoyed your presentation. Next is Jack Wrisberg.

Welcome, Mr. Wrisberg, to the committee. Make yourself comfortable. Do you want to take my picture?

Mr. Wrisberg: Oh, I carry it around all the time, just in case.

The Vice-Chairman: Okay. You can proceed as soon as you are ready.

JACK WRISBERG

Mr. Wrisberg: Before I get into what I wrote, I am not here specifically to criticize any item in the bill. I am expressing the fears of the tenants in the district, not just the building, in which I live.

The Vice-Chairman: Where is that district?

Mr. Wrisberg: In Etobicoke.

The Vice-Chairman: Thank you.

Mr. Wrisberg: Ladies and gentlemen of the legislative committee and all others present, last month, in ill health and unprepared, I attended one of these hearings for the first time but did not make a presentation.

However, I did receive a copy of the proposed Bill 51 and the belatedly distributed official guide. These items showed me how inadequate was my wide-ranging approach to this matter. Greater understanding of this proposal left me devastatingly appalled by its content. I would have to start over again, striking a narrower approach. To this end, I propose to deal mainly with some administrative features and to draw attention briefly to, but not enlarge upon, one or two of its financial aspects.

I was amazed to see how closely this proposal, in one respect, parallels Magna Carta. It was not designed to enshrine justice and freedom throughout the realm. When the nobles and high clergy of the land cornered King John at Runnymede in 1215 and wrested from him greater power, privilege and freedom all wrapped in guarantees and safeguards, they did so selfishly with no thought for the serfs, fiefs and yeomen of England. There just was not any consideration of these chattel as people. Had they foreseen that two centuries later a burgeoning literacy would, through that same Magna Carta, enable the same disadvantaged citizens and the new burghers' class to wrest from them some of the measures of freedom, they would have recast the Magna Carta in such a way that it would not have become the great charter of freedom and justice it is held to be today.

16:30

Why belabour an element of history some seven and a half centuries old? Because it illustrates and confirms the old adage that justice is only as good as the administration thereof, and this proposal, Bill 51, is abysmally destitute of any merit whatsoever in this regard.

In the first place, barely into the proposal, this bill is made virtually sacrosanct. That is in subsection 2(2). This, combined with sections 12, 13 and 38, effectively gives unlimited power to a single official or appointee to make judgements and decisions respecting the application of the act.

This, I say unabashedly, leaves the entire proceedings readily susceptible to bribery and corruption. Such practices can never be totally eliminated or legislated out of existence, but why enact legislation that sustains a proclivity for such malfeasance?

I can bring to mind by name only one instance in the whole of recorded history of a public official being invested with absolute power who executed it solely in the public interest, shunning all personal advantage and even the slavish acclamation of a grateful citizenry. There must have been others. I recall only Cincinnatus of Rome, circa 450 BC.

In this age of irreverence and cynicism, of rapidly increasing conflict-of-interest confrontations, who can or will vouch for the integrity of every public official, more so in view of section 44, where immunity from accountability is dependent upon subjective evaluation? What of the landlord? Why should he respect this legislation any more than that of the past? After all, the illegal rents--referred to only as "excess rent" in the guide, page 17, paragraphs 3 and 4--charged in the past by some unscrupulous landlords have been in the better part vindicated by this act of amnesty or appeasement, which supersedes the normally accepted terms of the statute of limitations. Even the conforming landlord must be tempted, for has he not been invited to snare in the spoils? That is section 88; you know what section 88 is about.

An aside is in order here. In section 88 "chronically depressed rent" is defined as "gross potential rent." Since "potential" has the quality of infinity, what does that phrase mean?

I see that I will not have time to address any of the financial aspects of this bill. However, I do wish to comment on a question of bankruptcy raised at this hearing on the evening of August 27, 1986. I guess such a comment can only be considered as rhetorical, for I presume that Bill 51 also negates the Bankruptcy Act.

Admitting to unsubstantiated statistics, this loaded question posed the hypothesis that if certain cost guidelines could not be enacted, 100,000 landlords would go bankrupt. What do you say to that? This being a loaded question, it must be answered from several points of view, even while allowing the hypothesis to stand.

Immediately, a single, simple, stark answer emblazons itself in my mind: "Better that 100,000 landlords go bankrupt than that 1,000,000 tenants be impoverished." These figures are likewise unsubstantiated, but probably low.

The second viewpoint begs counter-interrogation. How many of these so-called bankruptcies are legally or ethically tenable? That is, what percentage of these bankrupt landlords refinanced their property at inflated values, failed to set aside reasonable depreciation and capital cost reserves, took everything out and put nothing back, set themselves up in other businesses or in otherwise unachievable personal luxury? How many of these landlords have retired only a minuscule portion or none of the principal at all, balancing rental income against a highly levered investment, interest, operating, depreciation and capital costs where unavoidable, banking on further profit from further appreciation to be realized from sale or further remortgaging? How many have bankrupted themselves through mismanagement? If these disappeared, they just might, in small part at least, be replaced by ethical, honest and competent ones. Most likely, they would reappear in this market to start the cycle all over again.

A third posture takes for granted that the hypothesis is invalid; that this meaningless hue and cry, this exhortation to panic, is as old as the stratification of human society. Let me instance industrial Britain of the 19th century when, in consequence of Charles Dickens's writings, the first child labour laws were proposed. What an outcry. The industrial system would

collapse and with it the country and even the Empire. Passage of the proposed law would precipitate swift economic decline and universal, prolonged depression which would see the impoverishment of the wealthy and the near extinction of the working class. The law was passed. Industry and the industrialists survived; so did the country and the empire for decades to come in a substantially unmodified form, save for a rising standard of living.

So much for the consternation factor injected by the landlords which was aired, as it should have been, at these hearings.

In summation, therefore, I submit that I have made but two points: First, the red herring which I have dubbed the consternation factor should be discounted; and second, the one with which I am more concerned, this legislation by its administrative proposals encompasses dangerously autocratic provisions. In fact, I believe it to be ultra vires in many respects and, as such, ought to be challenged in the courts by persons more learned than I.

I thank you all for sitting through this minuscule brief.

The Vice-Chairman: Are there any questions from the committee?

Mr. Reville: Thank you, sir. I am glad you are feeling better, Mr. Wrisberg. That was a very interesting brief. We have had a couple that have had some historical background but none that went back to 450 BC, as far as I recall.

Mr. Taylor: The longer they go back, the more integrity there is.

Mr. Reville: That is right. It is a sad state of affairs.

Mr. Wrisberg: It is. I believe you. Unfortunately, thousands of our neighbours really do not know what is going on. Maybe they do not understand this bill any more than I do.

Mr. Reville: He was, however, talking about an autocrat. Your reference to an autocrat with integrity was quite specific.

Mr. Wrisberg: Yes, because autocratic power has been bestowed upon a single administrator. In fact, it does not have to be an originally appointed one; it can be a subappointed one. Presumably, with this legislation, you could pick up anybody off the street--

Mr. Reville: I am sure they will not just pick anybody. They will check into their credentials.

Mr. Taylor: They will have to be Liberals.

Mr. Wrisberg: Possibly.

Mr. Cordiano: I refer you to page 3 of your brief, where you are talking about chronically depressed rents in section 88. We had a study tabled yesterday in the committee that dealt with the whole question of chronically depressed rents, and the study revealed that only between one and two per cent of all units in the province would be classified chronically depressed and would be allowed to take advantage of that provision. As you can see, the study indicates it will not be very pervasive throughout the province. A very small amount of units would be affected and would be eligible to apply for that section.

Mr. Wrisberg: Yes, but consider those who are affected. I was talking to one dear old lady last night who has been in this building for 25 years. She is going to be hit by it at a stage in life where she is chronically worried right now until this is all settled. Hers would classify as a depressed rent because it has never been raised to any extent.

Ms. Caplan: It would not necessarily be classified. There are three criteria to make it a chronically depressed rent and it is important for people to understand what that classification is. First, the building has to have been owned before 1983. Second, the rent must be 20 per cent lower than the rent for existing buildings in the area. Third, the rate of return on the building to the owners over the period since they have owned it has to have been lower than 10 per cent, which was the amount of rate of return that was established. In many of those older buildings, they cannot meet all three criteria because the building was built at a time when there was a rate of return where it did earn 10 per cent during the time, where the rents are not 20 per cent below the area, or where they do not meet the additional criteria.

16:40

The study that was tabled shows that only one to two per cent of all units meet those criteria and that on the affordability side--as you know, the bill does not deal specifically with affordability but that question has been raised here and it is part of the overall policy of the government--0.6 per cent of tenants, that is about half of one per cent, will have an impact in that area of affordability. I think the concern of people who have discussed chronically depressed rents is that they are in a building where they have been for a long time, it is an older building and the rent is what they would consider reasonable, and they assume they are automatically going to be in a chronically depressed rent situation.

That is false. The other thing the study shows is that most of the chronically depressed rental units exist in very small buildings with two, three, four, or six units. The larger buildings are not the ones that would be impacted by the chronically depressed rents.

How large is the building in which this woman lives?

Mr. Wrisberg: About 30 suites, I think.

Ms. Caplan: She would likely not be included in the catch. However, on the issue of affordability--I think that is one area the government is interested in addressing--I know the minister would be happy to hear of a specific case or situation so it could be addressed in the future, because the whole social housing program is designed to address the affordability problem. That is not being addressed in this bill, although if there are going to be impacts, we have to be prepared to address those as well. It is my view--and I hope you will agree--that it should be separate from this bill because it deals with social housing--

Mr. Wrisberg: And individual circumstances.

Ms. Caplan: ---and individual circumstances. Would you agree with that?

Mr. Wrisberg: That I do agree with; but when you are determining this 20 per cent, how much will it be affected by the illegal rents, especially in this area? The statute of limitations has been overruled on that.

Ms. Caplan: That is a very good question. First of all, the location and quality of the building would be compared, so you would not have an old building in poor condition being compared with a new building in luxury condition. Second, it would have to be in the same geographic area. The other is on the basis of the 20 per cent comparison. No comparison would be made to an illegal rent. They would all be made to legal rents. This is where there is most tenant protection because, by establishing the legal rents, you are going to see some rollback and 450,000 units in this province have gone to rent review; so particularly in the large buildings it will be quite easy to establish what is the legal rent and then the comparison for the purpose of chronically depressed will be with legal rents not with illegal rents.

Mr. Wrisberg: Once they have been sort of legalized under the sort of amnesty that is proposed--I say still there is a two-year limitation on this; the statute of limitations has been lowered--where do you go from there in the next application for a chronically depressed rent situation? In my area there is a tremendous number. All the buildings are old. All the buildings are equivalent.

Ms. Caplan: Do not assume that because a building is old or because the rents are reasonable it will qualify as chronically depressed. Only one to two per cent or all of the units in this province will qualify. The majority of them will be in smaller buildings, not in the large buildings, and most of them will not be in buildings that have previously gone to rent review. It is important to know that.

Mr. Wrisberg: That is self-evident there.

Mr. Taylor: In any event, Mr. Wrisberg has pointed out that we are talking about an elderly person. There are a lot out there who are just afraid of the unknown.

Mr. Wrisberg: Oh, yes. I am expressing fears rather than substantial arguments.

Ms. Caplan: It is important for us to hear that. There is always concern about what the unknown is going to be. Studies have been done by the ministry. I am giving you this information in the hope that it will help some of the fear of the unknown. If people hear that large buildings will tend not to be impacted under the chronically depressed rent provisions, that may help people as they start to understand what it means.

Mr. Wrisberg: I will pass it along to the people who have expressed these fears to me. I am not caught there. I do not think my landlord has ever attempted to get an illegal rent raise. I cannot recollect any instance where he ever did. I know just about all the rents in the place.

Mr. Cordiano: The other important factor to remember with the question of uncertainty is that the ministry is undertaking an education program for the benefit of tenants and landlords to inform them exactly what is in the bill. A lot of people are not certain right now as to what is in the bill. Every effort is going to be made to ensure that tenants and landlords alike begin to understand what the new bill is all about.

Mr. Taylor: That will become a whole new industry.

Mr. Wrisberg: In the meantime, at that last hearing I mentioned, one of the ladies sitting here was assured that there are many amendments. There

is no input from the tenants on an unknown amendment. Supposing all these amendments go through, are they going to delay the bill for further hearings?

Mr. Taylor: No one will ever know until it is passed.

Ms. Caplan: It is important for you to know that the amendments proposed to this bill by the government are amendments that will allow the bill to reflect more closely the agreement that was made by the landlord and tenant group. The purpose of this bill is to reflect the agreement. As you have probably heard, the term is "delicate balance" of the different interests of landlords and tenants. It is very important. The amendments being proposed by the government will reflect the agreement of the Rent Review Advisory Committee.

Mr. Taylor: Now you can go home and sleep peacefully tonight.

Mr. Wrisberg: I am not worried. We are not caught in that area in my building. There are no illegal rents to compare.

The Vice-Chairman: Thank you very much, Mr. Wrisberg. The committee will recess until seven o'clock this evening.

The committee recessed at 4:48 p.m.

STANDING COMMITTEE ON RESOURCES DEVELOPMENT

RESIDENTIAL RENT REGULATION ACT

WEDNESDAY, OCTOBER 1, 1986

Evening Sitting

STANDING COMMITTEE ON RESOURCES DEVELOPMENT

CHAIRMAN: Laughren, F. (Nickel Belt NDP)

VICE-CHAIRMAN: Ramsay, D. (Timiskaming NDP)

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Knight, D. S. (Halton-Burlington L)

Pierce, F. J. (Rainy River PC)

Reville, D. (Riverdale NDP)

Smith, E. J. (London South L)

Stevenson, K. R. (Durham-York PC)

Taylor, J. A. (Prince Edward-Lennox PC)

Substitutions:

Caplan, E. (Oriole L) for Mr. Knight

Gordon, J. K. (Sudbury PC) for Mr. Stevenson

McKessock, R. (Grey L) for Mr. Epp

Reycraft, D. R. (Middlesex L) for Ms. E. J. Smith

Clerk: Decker, T.

Staff:

Richmond, J., Research Officer, Legislative Research Service

Witnesses:

Individual Presentation:

Zammit, R.

From the Ministry of Housing:

Peters, F. H., Director, Rent Review Division

Laverty, P., Director, Rent Review Policy Branch

From North Toronto Tenants:

Donnenfield, E., Representative

Individual Presentation:

Norley, M.

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON RESOURCES DEVELOPMENT

Wednesday, October 1, 1986

The committee resumed at 7:09 p.m. in room 228.

RESIDENTIAL RENT REGULATION ACT
(continued)

Consideration of Bill 51, An Act to provide for the Regulation of Rents charged for Rental Units in Residential Complexes.

The Vice-Chairman: The committee will come to order. Our first presenter tonight is Ross Zammit. Did I pronounce your name correctly?

Mr. Zammit: Yes, you did.

The Vice-Chairman: Good.

Mr. Zammit: Shall I give you this copy of the brief?

The Vice-Chairman: Yes, the clerk will take that from you. We appreciate it. As soon as you are ready, please proceed.

Mr. Zammit: Can you read this first before I go on or do you want me to read it for you?

The Vice-Chairman: Usually, the person makes an oral presentation. He either reads a written presentation which he has submitted to us or he talks from it, highlighting the points. It is however you would like to do it. We could follow along if you want to read it, or if you just want to highlight the points, the members could follow your written brief. It is nice to hear it at first hand from you. That is why we invite people to come. You might like to talk from the heart about how you feel and we can follow with the brief or read it later. We just want to hear what you think about this.

ROSS ZAMMIT

Mr. Zammit: First, the legislation went from six to four per cent last year and at the same time the heating season was extended to September 15. I have not seen any supplement to make up for that extended time period for the heating season which set me back another \$600 in that one year.

Another thing is I get a lot of tenants who move in and expect the place to be painted and everything done for them. I do it up for them and the next thing they do, four or five months down the line, is to just move out; they dirty it and after they have messed it up, find another landlord who wants to put out \$300 for renovating that place. There has been nothing to justify that situation as far as that consideration goes.

Another thing is that my building is old, about 60 years old; it needs new plumbing, it needs a boiler and there is not any capital for me to make expenditures. Last week, I had problems with the plumbing and I had to get the plumber in. I also had to send my wife to work because I cannot keep up with the place. I cannot keep putting out money from my own pocket just to keep the

tenants while they are earning big earnings. A couple of them are living in a bachelor apartment and paying \$285 a month while they are earning \$40,000 or \$50,000 a year. I am really dissatisfied with the way this whole system has been running. I would be glad if the government of Ontario were willing to take it off my hands with no profit at all for what I put into it. They can go ahead and take over my property.

The Vice-Chairman: Have you gone to rent review over the years?

Mr. Zammit: The previous owner went to rent review and he said he had a hard time because the tenants objected to too many things for some reason or another; I do not know. He got eight per cent, and for me to go through rent review is going to cost around \$1,500, which I cannot afford to go ahead with, and the increase is not substantial. It is only a matter of looking at six to eight per cent.

Mr. McKessock: Why would it cost you \$1,500 to go to rent review?

Mr. Zammit: It is because everyone I have phoned so far wants roughly between \$1,000 and \$1,500.

Mr. McKessock: For a lawyer?

Mr. Zammit: No, for the person who would go up and--

Mr. McKessock: Could you not do it yourself?

Mr. Zammit: I would not know where to start. I do not know what follows--they are so complicated. I do not know what it takes to get a fair increase. I have put a lot of time and effort into the place. I go there quite a bit of time. There is one sheet that states how much time we put into it. I have not seen a penny out of it yet for the time and effort I have been putting into that place. Last week the department of buildings and inspections came around and phoned me complaining about the heat because one tenant complained there is no heat. I do not even have heat in my house right now. That is how tight it is.

There is no use turning on the heat at this time of the year. This guy wants to live as if he is in Florida. I cannot afford to give him heat when the rest of the tenants have their windows wide open. Even in the wintertime, they have their windows wide open. The boiler itself is powerful. Unless you set a specific time when the temperature drops below a certain temperature, September 15 is when it is required, even if it goes all year round. When we start up on September 15 and the thing is running at \$600, \$700 or \$800 a month for gas, it is ridiculous just to have it go out the window.

The Vice-Chairman: Have you read Bill 51 or a summary of it?

Mr. Zammit: Yes, I read some of it. It is very confusing. This book I was just reading makes it a bit clearer.

The Vice-Chairman: Yes, that is the summary. There are mechanisms in the bill that allow for the recouping of expenses that you incur on capital improvement of your building. Also, if you are considered to have chronically depressed rents and if your rents do not cover anywhere near your expenses, there is a mechanism to prove that point through a new simplified rent review system.

Mr. Zammit: Are you telling me that because of the costs that bear on the building, I can go through rent review and it will consider this, even if it means an increase of 25 or 35 per cent? That is what it would take to cover that place.

The Vice-Chairman: I will ask Mr. Peters to give you a quick summary. Can you touch on a couple of things I have just mentioned?

Mr. Peters: It should be pointed out that you can apply now to the Residential Tenancy Commission which is currently responsible for the Residential Tenancies Act. There are some things for rent regulation in Bill 51, the proposed legislation. Many of the things the chairman mentioned with regard to the costs you are experiencing or the capital repairs that are required to be done on your property will be recognized by rent regulation and the rents will be adjusted accordingly. It is difficult to talk in terms of any flat percentage as to what those awards would be, but that option is open to you under the existing system or the proposed system.

The idea is that if you have a financial loss, it should not continue. Your rents should cover your costs and then some. If you wish, we would be more than happy to sit down and talk to you more about the proposed system and try to explain it to you a bit better.

Mr. Zammit: I would be glad to get advice so that I can see what I can do about the situation.

Mr. McKessock: Can somebody from the ministry help in situations such as this by talking to him so that he can do it on his own? It would cost \$1,500 to hire somebody.

Mr. Peters: The whole point of the proposed system is to move towards a much more direct and simplified system. It is our expectation that with the education campaign we plan to embark on, most small landlords will be able to make application on their own behalf to rent regulation and should not require a rent review consultant.

Mr. McKessock: As an example of what you might do, the apartment I am in not far from here applied for a 23 per cent increase and got a 13 per cent increase.

Mr. Zammit: If they grant me the increase, what happens if my boiler breaks down and I need a fast \$20,000? Where am I going to get \$20,000 quickly if I am not making a good return on my investment, so that if an emergency comes up I would have no problem refinancing it or whatever? What should I do in that case?

Mr. Taylor: You would probably still have that problem of raising capital even if the tenants were paying twice the rent. You said in your brief--it is unfortunate that you did not read it into the record. I found it very interesting. You do not seem to me to be a gouging, wealthy landlord. There is a tendency to generalize. If you are a landlord, everybody figures you have lots of money and are gouging the tenants. That is one of the perceptions. From this brief, it sounds as if you need some help. Do you have two mortgages on your property?

19:20

Mr. Zammit: Yes.

Mr. Taylor: Will not the bank increase your mortgages?

Mr. Zammit: The bank wants a fee of \$750 for an appraisal and there is another hidden cost somewhere along the line.

Mr. Taylor: What are you charging for your rents?

Mr. Zammit: I am charging \$285, and I have illegal rents up to \$350. If that had not come around, I would have been gone a long time ago.

Mr. Taylor: You are even charging illegal rent?

Mr. Zammit: Yes.

Mr. Taylor: At least you are honest.

The Vice-Chairman: That should be stricken from the record.

Mr. McKessock: Could we have him read his brief into the record?

The Vice-Chairman: Would you mind reading your brief into the record?

Mr. Zammit: Do you want me to start from the beginning?

The Vice-Chairman: Yes.

Mr. Zammit: Where is our compensation for an early heating season that was introduced last year? It cost us \$565 to keep the boiler active for that month and that was when the four-per-cent increase was introduced, a reduction from six per cent. My land tax never stayed within the four-per-cent guidelines and my insurance went up by 11 per cent.

My second mortgage was due last February. It was at only 9.25 per cent because it was a vendor take-back. I went to a lot of institutions for a second mortgage and nobody wanted to touch a commercial building. The ones who would wanted an arm and a leg, plus a one per cent to two per cent for finding it, an appraisal of about \$750 and legal fees of more than \$1,000. I asked my first mortgagee, Zurich Life Insurance, for an increase of the first mortgage. They said they did not want to finance commercial buildings any more.

I put a lot of time, effort and money from my income to support the investment I made three years ago. My tenants are mostly couples who make very good money between them. They pay from \$285 to \$321 a month in the downtown area, St. Clair and Bathurst. My land tax, heating, hot water tank and water in my residence cost me more than they are paying monthly and these are the utilities that are included in the monthly rents I mentioned. They would be crazy to move out or buy a house or condominium, as they know it will cost them much more in common elements and tax land alone.

I have nothing against a person who makes a lot of money, but rent control has not done anything to help the low-income earner, other than make it harder to find a place because of the shortage of housing. When I take an application and the applicant has a low income, I am scared to accept him. I have a big choice. The end of the month comes around and the bills have to be paid.

I have had a very hard experience with this investment and if I had known it was going to be like this, I would not have gone into it. I would

have preferred a residential home, where the market has shot up like crazy in the past three years, and I would not have had to put up with this nonsense.

I have had three tenants evicted and you should know how much pain, aggravation and costs there are to evict a tenant. Each eviction cost me close to \$1000 and I lost rent money that I will never recover. Because of rent control, properties such as houses and condominiums are so expensive that I do not know how the people in the generation coming up will manage to buy a roof to put over their heads.

I would also be glad if the government of Ontario were willing to take over the property. Re-pay me my down payment and all the costs I put in, and I will not ask for the days and hours of hard sweat, tears and labour I put in to ensure my good credit rating for the future rather than bankruptcy. Let the taxpayers pick up the tab for my 12 tenants who make more than \$25,000 a year.

For some time, I have been keeping records of work we started doing on this property, which you should look at to consider more supporting material. We have tried to sell the building, but the offers are so ridiculous that we would be paying the purchaser to take it off our hands.

Here is an example with the hydro commission. Because hydro was to put up a minimum percentage, the government of Ontario said: "No, because you are losing money. You must put it up more." Also, support material is available.

How will the government deal with landlords who charge illegal rents, for instance? I charge illegal rents and if it were not for that, I would have been out of the picture a long time ago. The rents are still reasonable. Why should I not charge what I think is fair? If I overcharged, I am pretty sure the tenants would not want to rent.

When we started three years ago, the figures worked out until we found a lot of obstacles in the way: higher cost of operation, tenant evictions, boiler and plumbing work, painting when tenants move out, each unit costing between \$200 and \$500 to re-do. You get these gypsies who write sweet things on the application; then they mess up the place after a few months and move on to find another sucker landlord.

If my boiler should break, I do not have \$15,000 to \$20,000 to replace it. What am I to do if this ever happens? The building is old and we have been keeping it up for the pleasure of our tenants, but if something major comes up, I am finished for sure. I have tenants who tell me their rent is cheap for the location, size and cleanliness.

If nothing good is going to come out of Bill 51, I am not going to fight for it any more. I hope that one morning I am going to get up and see some light in the tunnel. I will let the building go dirty and do no more maintenance, which is drawing me out slowly. I hope you are reasonable and understanding people. I shall leave the faith of all tenants and landlords in your hands.

Mr. Reville: Mr. Zammit, is your building in the city of York or the city of Toronto?

Mr. Zammit: It is in both. At the back it is in the city of York and at the front, in the city of Toronto.

Mr. Reville: That is too bad. It sounds as if your building might be

eligible under the low-rise rehabilitation program. You might want to check with both city halls to see. There is some money available for bringing buildings up to minimum standards. It depends on whether the municipalities have any units left to allocate, but you may want to check that out with the building departments in both municipalities.

Mr. Zammit: About a year or two years ago something such as that was introduced. I was going to apply for it, but everything was taken. The requirements they had established for the time being were already taken up.

Mr. Reville: The government did announce 17,000 units under that program, and there may be some around. It may be of some help to you.

Are you a member of any landlords' organization?

Mr. Zammit: The Fair Rental Policy Organization.

Mr. Reville: They are equipped to explain the bill to you, and you probably should call them up and get them to do that.

Mr. Zammit: I do not like to take too much of their time, for some reason.

Mr. Reville: I am sure they would be happy to do it. They have a number of staff and a ton of money. They are spending about \$2 million on an ad campaign, so they have some money somewhere.

Mr. Zammit: What are they going to do? Come and give me the money?

Mr. Reville: I hope so.

Mr. Zammit: That will be the day.

Mr. Reville: They will give you some advice, I am sure, though.

Mr. Pierce: Mr. Zammit, you should also be aware that, by admission of your brief, you are charging illegal rents, and with the passing of Bill 51, of course, you would be compelled to return the rents.

Mr. Peters: I was going to offer the observation that we may well face a situation here in which the rents charged in this property could be justified, given the costs incurred to date by the landlord. We have had testimony before the committee, certainly by ministry staff, about technical illegalities in terms of a person, for example, avoiding a rent increase one year and then doubling the guideline the next year. With all respect to the deputant, perhaps the statement may not be accurate in the sense that after review, and given the situation he has described with reference to the costs he has incurred, there may well be a technical element. The question of illegality frankly remains to be demonstrated.

Mr. Pierce: It would appear from the deputant's brief that in order to survive, illegal rents were necessary.

Mr. Taylor: That is a conclusion in law that he has formed, but I think what has been said is that the facts may not substantiate that conclusion.

Mr. Pierce: Taking into account the rents that are being charged in

this instance, where you are talking about \$285 to \$321, and going back to the old bill, where you were allowed six per cent increases, then based on the figures provided, that amount of money does not cover the increased hydro, taxes and other costs that are there for any landlord. Not only should the deputant perhaps be allowed the illegal rents, but there should be an additional catch-up on the rents that are currently being charged.

From what I can see from this submission, this landlord is heading for bankruptcy and a defunct building.

19:30

Mr. Peters: One of the issues the deputant clearly identifies in the presentation and that Bill 51 attempts to resolve is that many small landlords have avoided going to rent review previously because they found the system, either by reputation or by experience, to be too complex, adversarial and not in their interests. I am suggesting that, given the information before us, there would appear to be a range of things that could be looked at under Bill 51 to address the concerns expressed.

I would again stress that the question of illegality may not be demonstrated when such things as financial loss are brought to bear, extraordinary operating costs and so on. If there is a net loss, there is obviously some relief for financial loss. If there is an extraordinary operating cost, both the existing and the proposed system allow for some relief, which would be reflected in the rent roll. Obviously, the situation is worth further discussion and exploration.

Mr. Pierce: On page 1 the deputant has indicated what it would cost to get another mortgage on his unit. He talks about the high percentage interest charges on an additional mortgage. He also talks about an upfront fee of \$750 and a \$1,000 legal fee, which I think is very conservative because, by the time you re-register the properties, the legal fees can be well in excess of \$1,000.

When you look at that and look at a landlord charging rents in the area of \$300, and he is looking at maybe getting really lucky and coming out of rent control or rent review with an additional one or two per cent, it does not cover his legal costs to make the necessary trip to rent review. There is nothing in the existing act that requires you to take your lawyers and your accountants, but it is certainly suggested at the reception desk that you come with your accountant and lawyer to justify your case. It is an expensive trip. It is not just the cost of a subway token.

Mr. Peters: That is certainly not the proposal we are advancing under Bill 51. The costs that have been identified on page 1 would be allowed as bona fide costs for the purpose of rent regulations. Fees associated with the mortgage, the appraisal fees and so on are part and parcel of what would be identified and recognized as costs at rent regulation. I stated previously on a number of occasions that we are optimistic we are not requiring you to show up with your accountant, lawyer and faith healer under the revised system.

Mr. Pierce: But in real life, when you present yourself to that kind of board or that kind of hearing, your case is much better stated when you are accompanied by your accountant, who can explain the books, and by your lawyer, who can explain your case, than when you act as an individual. I am not referring to a landlord of 140 units; I am referring to a landlord of 12 units who does not necessarily come equipped with that expertise in presenting his case and who could walk away with nothing.

Ms. Caplan: The point my colleague makes is exactly the one that is addressed in Bill 51. Having an administrative review rather than a courtroom type atmosphere and a formal hearing--where not only small landlords are intimidated by that process but also tenants who are unorganized, or in small buildings, or who do not speak the language well, or do not know how to organize themselves are equally intimidated by that process--makes it more customer friendly. Being able to sit down with an administrator where the rules are clear and defined in an informal atmosphere, I would say, would be much more customer friendly. Whether that customer happens to be a landlord or a tenant, each one is looking for fairness.

I am sorry Mr. Reville would tell him to go to the Fair Rental Policy Organization of Ontario. The advice I would give is to contact the Ministry of Housing tomorrow, and even the minister's office directly, for advice on where to go to get advice to help you begin the process now. There is a commitment to dealing fairly and making it easy for people, especially the small landlords who cannot afford the accountants, the lawyers and the consultants who charge very high fees, just as the minister receives calls all the time now from tenants and wants to respond by helping them in this interim period until we have this new bill, which will set in place the educational opportunity and the more friendly atmosphere, as opposed to confrontational and adversarial atmosphere.

You have made a very good case for why this bill should go forward and why we need to have that kind of an educational opportunity. I encourage you to call the office of the minister tomorrow to get some direction on whom you should talk to in this interim period at least to begin to see that you are treated fairly, because that is the intention and the purpose of this bill.

The Vice-Chairman: Thank you, Ms. Caplan.

Mr. Zammit: May I respond?

The Vice-Chairman: Yes. Please go ahead.

Mr. Zammit: What is going to happen now that I have been caught between the increase of six per cent and four per cent? Actually, I lost two per cent from last year because my rent increase was due October 1 and I had to make it retroactive to August 1. For one full year I got caught on the four per cent, and this year puts me another two per cent behind actual cost.

Ms. Caplan: Rather than deal with your specific case this evening and try to get into details without having all the information, I would advise you to make a phone call in the morning--I will give you the phone number before you leave--and someone will sit down with you and give you advice and instruction on how to proceed.

Mr. Zammit: Let me qualify one more thing. The illegal rents I am charging are \$350 a month, which is only an extra \$30 a month more than the rest or whatever they are, \$25 or something like that.

Ms. Caplan: The point that has been made this evening is that they may not be illegal at all, given your costs and the fact that you have not gone to rent review. In your mind, your feeling is that they may be illegal. What you have heard from Mr. Peters is they may not all be illegal; they may be eminently justifiable, and you should sit down and get all that information before you come to a conclusion that may be incorrect.

The Vice-Chairman: Ross, Mr. Peters will give you his card with his phone number. You can contact his office in the morning, and he can put you in touch with somebody who can help you out.

Mr. Zammit: Thank you very much.

The Vice-Chairman: Is there any representative here tonight from the Lakeshore Tenants' Association? John Meek is listed here as deputant. Is there anybody from the Eglinton Riding Tenants' Association?

Interjections.

The Vice-Chairman: I would like to engage the committee in a little discussion, if it would not mind. The next two presenters, scheduled for 7:30 and eight o'clock, are not here at the moment. Is Maryanne Norley here?

Interjection.

The Vice-Chairman: As well, the presenter from 8:30 is not here. Do you wish the committee to recess until eight o'clock?

Ms. Caplan: Why do we not just turn Hansard off?

The Vice-Chairman: Were you going to say something nasty?

Ms. Caplan: No, I was not. We could just recess but not leave the room because, if the 7:30 witness shows in five minutes and if we do not come back until eight o'clock, then we will be that much later. I suggest we recess but stay in the hearing room.

The Vice-Chairman: Do I get concurrence that we will have a short recess of the committee to wait for the next deputant? Thank you, Ms. Caplan, for your suggestions.

The committee recessed at 7:40 p.m.

19:45 p.m.

The Vice-Chairman: Mr. Donnenfield, could you come up to the front? Welcome to the committee.

Mr. Donnenfield: Thank you very much.

The Vice-Chairman: Thank you for coming early.

Interjection.

The Vice-Chairman: Yes, Mr. Donnenfield, would you clarify your present position, or is it your former position, as co-president of 2121 Bathurst Tenant Association?

Mr. Donnenfield: That is right.

The Vice-Chairman: All right. Thank you for appearing before us tonight. As soon as you are comfortable, you may proceed.

Ms. Caplan: Did you know there was to be a delegation here last night?

The Vice-Chairman: He was here.

Mr. Donnenfield: I was here, but I was not speaking last night. I was here only to assist them in their representation, that is all.

The Vice-Chairman: I take it that tonight you are speaking on behalf of the North Toronto Tenants.

Mr. Donnenfield: That is right. David McFadden asked me to speak on their behalf.

The Vice-Chairman: The name rings a bell with me.

Ms. Caplan: I did not realize his riding went all the way up into North York into 2121's area.

The Vice-Chairman: He used to be president of some charity organization, I think, until a while ago.

Please proceed.

NORTH TORONTO TENANTS

Mr. Donnenfield: I will introduce myself. My name is Edward Donnenfield, and my experiences have been as a developer, an apartment house builder and a house builder in Toronto, Montreal and Ottawa, so I am wearing two hats tonight, one as a past apartment house owner and the other as the tenants' representative. I am now living in an apartment house at 2121 Bathurst and I have the feeling of both parties. In other words, I am sympathetic towards the developers and the apartment house builders and I am also sympathetic towards the tenants in the apartments.

Mr. Taylor: You should run for politics.

Mr. Donnenfield: I know some of you people here, and that might make it a little easier for me. I am not an orator and I do not profess to be a professional speaker, but I think I can ramble through what I have to say.

Ms. Caplan: Do not be nervous.

Mr. Pierce: I am sure you will be able to handle yourself. It is the committee you will have trouble with.

Mr. Donnenfield: Getting down to Bill 51, I am sure you have heard all the pros and cons. I know a lot of the developers are not in favour of it and I know a lot of the tenants are not in favour of it, but there are a number of clauses in Bill 51 that will be very difficult to legislate and to put through.

19:50

First is the bureaucratic review of rent increase applications above the residential complex cost index. Despite its limitations, the current rent review system is a very open, accessible system at present. The bureaucratic review by a Ministry of Housing official on a landlord's application for a rent increase above the amount calculated using the residential complex cost index will erode the openness and accessibility of the current system. The existing rent review hearings, both in the first instance and on appeal;

provide the tenants with a good forum for stating their case and should be maintained.

I know some of you have heard about the formula for calculating the rent increases before, but I believe I can elaborate a little bit on it. The use of RCCI and the building operating cost index poses a number of problems. Most tenants have some difficulty grasping these concepts and understanding how their rent will be calculated. As well, RCCI will be determined by regulation without the opportunity for review by the Legislature. Tenants will be vulnerable to the uncertainty of RCCI and will be dependent upon the whim of a particular government. The method of calculating rent in Bill 51 could result in considerable litigation. We would prefer to have the rental increase guideline based upon the consumer price index. This is a well-known and generally recognized index.

Then there are the special rent increases for buildings with chronically depressed rents. Section 88 would permit the Minister of Housing to allow a two per cent annual rent increase above and beyond the normal increase for pre-1976 buildings that have chronically depressed rents as defined in the act. The additional rent increases will adversely affect many tenants, many of whom are senior citizens living in older buildings. We saw this last night. The impact of section 88 may mean that some tenants of modest means may no longer be able to afford to stay in their apartments.

One of the very difficult clauses in Bill 51 is the equalization of rents. Part IV of the act regarding equalization of rents is of concern to many tenants. This part will pit tenant against tenant. In many cases it is debatable whether units with the same square footage in a particular building are similar and should be rented for the same amount.

For example, is a two-bedroom basement apartment next to a service entrance, the elevators or the garbage chute similar to a two-bedroom apartment in the same building that is on the 35th floor and has a spectacular view?

Finally, this provision will adversely affect long-term tenants, many of whom are senior citizens who can least afford these higher rents due to the equalization of their apartment rents.

The biggest bugbear that I find is the treatment of capital costs. That portion of a rent increase due to increased capital costs should be borne by the tenants only during the useful life of the capital improvement. Extraordinarily large capital costs in one year have the effect of dramatically increasing the base rent for tenants.

I believe Mrs. Tate tried to explain something last night with the blocks she had here about the escalation and so on. A typical example is the apartment building at 2121 Bathurst Street. Recently we had our garage floors repaired because of the salt and everything else that eroded the concrete and damaged the reinforcing steel underneath. The cost for those repairs came to \$500,000. After we went through rent review with the commissioner--we now are appealing that commissioner's directions--the landlord asked for 12 per cent interest on the cost that he had put out. It was his own financing and his own money. We got him down to 11 per cent.

He will get his \$500,000 over a period of 10 years. It was amortized over 10 years. He will get his 11 per cent on the money he had invested in it. Now, year by year, he will get an additional six per cent, or four per cent,

or 5.85 per cent, or whatever is settled on after Bill 51 is passed. That means that at the end of the 10-year period, he will probably have received close to \$800,000 for his \$500,000, plus 11 per cent that he got on his financing. There will be a reduction of \$50,000 a year, but he will still get his 11 per cent on the balance and he will get his five or six per cent on top of that.

We recommend that apartment house expenses and costs should be a separate issue from the capital costs. They should not be lumped into one sum. You have a large basic rent that will be astronomical by the time the amortization is finished.

It is recommended that the approved increase in rents be apportioned between capital costs and operating costs. That portion of the rent increase due to capital costs should not become part of the base rent but should be treated separately and amortized over the useful life of the capital improvement.

In increasing the supply of residential rental units, Bill 51 does not address the serious shortage of affordable rental accommodation in Metro Toronto. It is critical that the provincial and federal governments stimulate the construction of new homes and apartment buildings to improve the low vacancy rates in Metro Toronto.

The only way I can see that this will be done is by the government going back to land lease rental land they have. It has a tremendous number of vacant buildings that could be utilized if they were leased to developers to rehabilitate those buildings into housing. It is not just for low-cost housing. There is a tremendous shortage of medium-priced housing for the empty-nesters, the young couples and so on who are making a fair wage but have nowhere to go, so they have to buy houses. That is why the housing market is good, but then they are strapping themselves out in the outskirts with large mortgages that eventually might catch up to them.

Bill 51 does not assist those tenants of limited means who cannot afford the rents today in rent-controlled apartments. I believe you have heard that story all the way through, about 20 or 30 times already. These tenants require a shelter allowance or subsidized housing. The provincial housing policy must address the needs of low-income and fixed-income tenants who cannot afford the rents in Metro Toronto.

I wrote something down here. Bill 51 does nothing to encourage the builders to start any programs. That is what it was supposed to do, but it does not do it. To increase rental housing, it is up to the government to make land available at a price that would lower the cost of apartment units.

20:00

It has tried different subsidy programs without any success. Across the country 14,000 to 16,000 units mean nothing. The cost of serviced land is the key, and until the government releases some of its land banks to the private sector, as I mentioned before, or turns over buildings owned by the government but not being used at present to the builders, either on lend-lease or for a price that would encourage the investors to start low and medium-priced apartment units for rent, our vacancy factor will remain at 0.2 per cent and rent controls will have to remain on.

Bill 51 is so complex that only the experts understand it. Soon it will be unintelligible. Thank you.

The Vice-Chairman: Thank you very much. Are there any questions from members of the committee?

Mr. Pierce: This afternoon we heard a presentation, and one of the claims of one of the presenters was that out of all the construction that is going on in the Metro area, there are only 176 units under construction that are not subsidized units. Your reference on page 3, item 6, is that the governments have to do something to "stimulate the construction of new homes and apartment buildings to improve the low vacancy rates in Metro Toronto."

It would appear that, given the figure of 176 nonsubsidized units--and there is a fair amount of construction going on; I realize that a large proportion of it is condominium--

Mr. Donnenfield: Most of it is condominium.

Mr. Pierce: --spurred on because of rent controls, but you did comment orally that you had some suggestions on how governments could best satisfy a stimulation for the investor, for the developers. You made reference to the high cost of development of land and also to the high cost of the purchase of property, and you said that governments could release some land.

Do you know of any areas in the vicinity of Metro Toronto where the government is sitting on a bank of land that is not available for developers?

Mr. Donnenfield: Right now I really do not. I know it did have land out in Malvern at one time, but that has been used up, and any apartments that are going up now, as you mentioned, are strictly condominiums or for subsidized rent. Mr. Grenier knows about those apartments that are being developed by subsidy of the government. It is peanuts compared to the demand. How are you going to get a 0.2 vacancy rate down? That is why you have rent control. If there were no rent control and if the vacancy rate were that low, it is the cart before the horse, the horse before the cart. Do we build the apartments and then satisfy the demand, or how do you satisfy the demand?

Mr. Pierce: I believe you indicated in your opening remarks that at one time you were also a landlord or a developer or a builder.

Mr. Donnenfield: Yes, I was.

Mr. Pierce: From your presentation, you have certainly studied Bill 51. Can you tell me whether you would become an investor-developer under these guidelines of Bill 51?

Mr. Donnenfield: No.

Mr. Pierce: Why?

Mr. Donnenfield: I cannot see the benefit to me. It is still going to be too costly to build the apartments because of the amount of rent you are going to be able to get out of it. You are going to have to charge rents of \$1,000 per month for two bedrooms or one and a half bedrooms, and I do not think people can pay it.

Mr. Pierce: Is it easier for you as a previous landlord, and now as a tenant, to get a better return on your money by investing it in stocks, bonds and other commodities than by investing--

Mr. Donnenfield: I would rather build office buildings, doctors' buildings or things like that, where you have a bigger return.

Mr. Pierce: There has been an indication by the developers and landlords that Bill 51 could possibly encourage them to get back into apartment construction.

Mr. Donnenfield: I do not say that Bill 51 is completely wrong. A number of changes have to be made in Bill 51 to soften the blow and to put some teeth into certain parts of it. We are going to be needing something of that nature, but a number of changes have to be made to it in its present form.

Mr. Pierce: Let me ask you to put back on your hat as a tenant. I can appreciate what you are saying, that there have to be more teeth put into it to encourage developers and landlords.

Mr. Donnenfield: More teeth have to be put into it to protect both sides.

Mr. Pierce: But if there is going to be development, it has to be in the private sector.

Mr. Donnenfield: Definitely, but you are still going to need some assistance. If our governments can throw \$30 million and \$60 million away on a playing field, they can certainly throw it in here too and build another 12, 14 or 15 buildings.

Mr. Pierce: Previous presenters representing tenants have said that they are not in favour of shelter allowances or of governments using them as a funnel to put more money into pockets of the rich landlords. How do you address that one?

Mr. Taylor: Such as that previous landlord.

Mr. Pierce: The previous landlord will come out with both hands in his pockets trying to hold on to his pants.

Mr. Donnenfield: Without question, the landlords are entitled to make a profit on their investment, but if all of you put your heads together, perhaps with the addition of some other people, and go over Bill 51, you could come up with the right answer.

Mr. Pierce: I will bring this to an end. Do you see the landlords being able to make money under Bill 51?

Mr. Donnenfield: Yes, I think they would.

Mr. Pierce: My final question is, do you see the tenants suffering as a result of Bill 51?

Mr. Donnenfield: Yes.

Mr. Reville: I am glad you talked about supply, because I do not think Bill 51 has anything much to do with supply. I do not think it will create any affordable housing. I do not think it will create any housing, period.

There are thousands of hectares of government land. We could do

something about affordability if that land became available. There are also a lot of government buildings that could be used, although that would be more difficult, because making them suitable for residential use is sometimes almost as expensive as building new.

Mr. Donnenfield: That is right.

Mr. Reville: If we get aggressive about ideas such as that, then we can start to do something serious about affordability. I am glad you brought it up.

Mr. Donnenfield: I appreciate that. I remember years ago there was a shortage of low-cost housing and the government came up with land rental. I myself built in Hamilton and Malvern under that scheme. It brought in a great supply of low-cost homes for the average wage earner.

Mr. Taylor: There is a summary of the recommendations of the report of the Rent Review Advisory Committee. On April 18, 1986, the Rent Review Advisory Committee presented the Minister of Housing (Mr. Curling) with a report containing its recommendations. The committee stressed that the report must be viewed as a total package leading to the overall objective of an increased supply of well-maintained, affordable rental housing. There you are.

The Vice-Chairman: Thank you very much for the clarification of that.

Mr. Reville: Ms. Caplan went on to say they were going to provide 3,000 units, and they did not do it.

Ms. Caplan: Rather than asking questions, I would like to take the opportunity to go through some of the points in your brief, perhaps to explain them with the ministry people here, because I think you have some misconceptions. You see the bill as complex. One of the things that members of RRAC have said to us is that their original goal in making these recommendations to the minister was to keep it as simple as they could. Unfortunately, to achieve the fairness for landlords and tenants that they were trying to achieve, it became very complex. It is certainly understandable that these things need explaining. If it would be all right, with the help of the ministry officials we can perhaps clarify some of it, which might be of interest to you.

20:10

You referred to what is being proposed as a bureaucratic review rather than an administrative review. We have heard from many tenants as well as from landlords, particularly small landlords. An individual who was here just before you was telling us--I know it from personal experience--that often tenants have been very intimidated about the rent review process. Some were concerned about harassment or problems with the landlord and they did not go. They were subjected to illegal rent increases or difficulties because they did not know what process was available, or because it was expensive and they did not have the right advice or because the tenants were not sophisticated enough to organize themselves.

This new bill proposes two things that should be of great benefit. One is the first level of administrative review where a ministry official will sit down with either the tenant or the landlord or both in a meeting to go over and present all the facts. This will be particularly helpful for the unorganized and unsophisticated--

Mr. Donnenfield: I understand that. As a matter of fact, I agreed on that point. The only thing is that it is not good for an organized group.

Ms. Caplan: Let me suggest that if an organized group that is very sophisticated and knows its way around is not satisfied with the administrative review, it has the right of appeal. That avenue is there and open to them, but because of this sophistication they may well be very satisfied without this quasi-judicial type of hearing that is so very costly to everyone. The new process should help the small and unorganized. It will further protect and benefit the ones that are organized because they know their way around and there is always the right of appeal to a formal hearing if there is dissatisfaction. I point that out to you on number one.

As to the second one, you made a point about having a rental increase based on the consumer price index. Perhaps I can take a minute to explain the residential complex cost index, which is really that very same principle and is the opposite of what you said here about leaving it to the whim of a particular government. A formula will be enshrined in legislation whereby the tenants will know that this is the guideline. The only change in that guideline will be that instead of it being called the consumer price index, it is called the building operating cost index. There are many things in the consumer price index that do not affect buildings.

Mr. Donnenfield: May I stop you there?

Ms. Caplan: Yes.

Mr. Donnenfield: One of nitches is going to be when you say that the cost of the building, expenses and so on, to be his basic rent--

Ms. Caplan: This formula will be a province-wide guideline. A lot of people think that the formula will kick in and there will be a different formula for each building. That is not the case. There will be one guideline set annually based on this formula for all the province. Only if the landlord is able to go to rent review to justify higher rents than that will there be anything greater than the guideline through the administrative process.

A lot of people think that the reason this is complicated is that each building will have a different formula. In fact, the RCCI is a set guideline in the legislation for the whole province based on a formula of the two per cent plus two thirds of this building cost index. It will protect tenants in times of high inflation because when inflation is high, the formula guideline will be lower than inflation, and in times of low inflation it will be an inducement to have the maintenance provisions that tenants are requesting. I wanted to explain that to you.

Mr. Donnenfield: Could you compare the costs in London or small towns in Ontario to what you have in Toronto?

Ms. Caplan: Perhaps the ministry could answer the question of how you would arrive at the building operating cost index if it is going to be province-wide.

Mr. Taylor: It will be the same across the province.

Ms. Caplan: It will be the same for the building operating costs.

Mr. Laverty: There is one rent guideline across the province, in the

same way that there has been one guideline across the province ever since 1975. The only thing we are doing with the new system is making the new guideline flexible, so that it will respond to inflation rather than being fixed periodically.

Mr. Donnenfield: We may need a little more explanation, which is fine.

Mr. Reville: The consumer price index would do that too.

Ms. Caplan: That is exactly the point. This will be sensitive to inflation, just as the consumer price index would be, except that, in my view, the consumer price index would result in a higher increase than this one. All the costs would relate directly to building and land and the residential complex cost index would end up being an average across the province.

Mr. Donnenfield: That is a good explanation. I appreciate that.

Ms. Caplan: I know there are a lot of misconceptions.

Mr. Taylor: Ms. Caplan, maybe I can remind you that we have before us a very sophisticated, well-informed, experienced person, with experience over a great many years in a lot of cities in both Ontario and Quebec. I do not think you have to lecture him. He is very well informed.

Ms. Caplan: Obviously, he did not understand RCCI.

Mr. Taylor: Unless you are propagandizing for your party.

Mr. Reville: She would not do that.

Ms. Caplan: I am not suggesting that at all. In listening to the presentation, I thought there were some things that were not clear and I would be happy to take the time to explain.

Mr. Pierce: If this gentleman, who comes with so much experience, does not understand the bill, what does the average landlord or tenant understand?

The Vice-Chairman: Mr. Donnenfield, before you go, is there anything else you would like to say to the committee to sum up?

Mr. Donnenfield: Yes. There was one other thing that I forgot. If I remember correctly, you stated in Bill 51 there will be inspections made to all the apartments to see that the maintenance will be kept up to the--

Ms. Caplan: Provincial standard.

Mr. Donnenfield: --provincial standard. It will cost you an arm and a leg to administer this. The municipality does not want to do it. I have spoken to a lot of municipalities already and there is no way, unless they are forced to their knees, they are going to go around and make inspections to see that each building is kept up to the maintenance standard and what the people are paying for rent. Who is going to do that? How is that going to be administered? It will be so unwieldy, I do not think they will be able to cope with it.

Mr. Taylor: These are the rent cops we were talking about.

Ms. Caplan: The Rent Review Advisory Committee, which has nine landlord representatives and nine tenant representatives, is making representations to the minister right now about how that can be done. Both sides are very concerned about having a provincial maintenance standard, because there are some municipalities in the province that have no standards at all. There are areas where landlords have allowed their buildings to deteriorate to the point that people do not feel they have decent housing.

Mr. Donnenfield: That is what happened in our building. For 25 years, they did nothing. Then all of a sudden when rent review came in, they fixed the roof for \$400,000 and put in rugs. In some cases, we did not need them. If it had been kept up all the way through, it would not have hit the tenants so hard.

Ms. Caplan: One thing I have heard from tenants in my constituency is the concern about a provincial standard, that there is a mechanism to ensure that the tenants are getting value for their rent and that their buildings are decent places to live. The people who were here today felt they had a very good proposal. They were close to reaching agreement on everything except the makeup of the board. I think we should wait and give them a chance to see what they come up with.

Mr. Reville: They did not comment on the enforcement problems though.

Ms. Caplan: They did.

20:20

Mr. Reville: Come on. There are 82 inspectors in Metro. That gives them 4,200 units each to inspect. How are they going to do it? They have other jobs to do as well.

The Vice-Chairman: Can I ask Mr. Peters whether he has any update on this problem?

Mr. Peters: Not directly. As I recall, this afternoon the positions were stated by the Fair Rental Policy Organization of Ontario. There was also comment that in many issues they were close. There was some discussion, and still something should be resolved about the composition of the board, but I think the statements were mainly about provincial standards. At this point they are continuing to meet. They are meeting again tomorrow on the maintenance standards board. As Ms. Caplan said, it may be prudent to wait until those deliberations are complete.

Ms. Caplan: There is only one other point, and I will be as brief as I can. On the chronically depressed rents, the committee had tabled with it a study by York University which shows that only one to two per cent of the units in this province would qualify as having chronically depressed rents and that the impact of this provision would be felt by around 0.6 per cent of tenants. There is a lot of concern among people living in reasonably priced buildings that they would automatically be designated as having chronically depressed rents, and the study shows that this is not the case.

Mr. Pierce: I have heard that study mentioned about four times today in respect of chronically depressed rents. The question that comes to my mind is, what area was York University studying in respect to rental accommodations? Are we talking about large units? What numbers are we talking about? Are we talking about the ma and pa operations? Was that part of the

study? Are we talking about a minimum of 12 units, 14 units, 18 units, 26 units? What were the guidelines for the study?

We have also heard in many presentations in respect to vacancy rates that Canadian Mortgage and Housing Corp. uses a guideline that does not really reflect what the vacancy rates are, because it does not count any buildings with fewer than 12 units in some areas or six units in other areas. At the same time, we hear presentations made that a large number of landlords are ma and pa, small operator landlords.

What were the guidelines for the York University study, before we start using it as a guideline for the province? I certainly do not have the guidelines in front of me and I do not know that any other members of the committee do.

Mr. Reville: I have them here.

Mr. Pierce: Thank you very much, Mr. Reville. Perhaps you have better sources.

Mr. Reville: If he tells you, I will tell you what it really means.

Mr. Pierce: What did we talk about?

Mr. Laverty: The coverage in terms of building size was four units or more. A very large percentage of the buildings that would qualify for chronically depressed rent relief are in the range of four to six units. A very large number of ma and pa operations would undoubtedly be the ones receiving the most serious consideration. As you can imagine, with the larger buildings, the larger they are, the more likely they are to be maximizing their returns under the rent review program and the less likely it is that they would be chronically depressed.

The Vice-Chairman: Mr. Donnenfield, thank you for your presentation.

Mr. Donnenfield: Thank you very much for your time.

The Vice-Chairman: I would like to call upon Maryanne Norley. Welcome, Maryanne. Glad to see you tonight. You can start any time you wish. Do you just want to give an oral presentation?

MARYANNE NORLEY

Ms. Norley: Yes. I am probably the person you would think represents the average tenant whom you might have been looking for all this time.

Bill 51, to me, is described as rent control legislation, but it is really rent-increasing legislation and it is creating considerable panic among tenants. Tenants recognize that Bill 51 will dispossess some of them at the very next rent review their landlord applies for. Forty per cent of them cannot afford further rent hikes. Landlords are eager to increase the rents. There is no alternative housing for tenants to move to in this city. In fact, there are between 15,000 and 30,000 homeless people in the city already. Sixty-five percent of Toronto's population are tenants, and tenants experienced a 17 per cent decrease in income last year.

Landlords claim they do not receive enough revenue at present rent levels to keep up the buildings. The majority of them are ignoring the present

legislation and collecting rents far above the legal limit. Developers claim present rents prohibit the building of more housing. However, there is no shortage of office space, a good deal of it unoccupied, and many expensive condos have been pre-sold, although not yet built. Plans for a new sports arena to host the Olympics are being made.

This city is obviously moving, and the direction seems to be established, perhaps by the more energetic, ambitious and sophisticated, who recognize a need for international exchange. We tend to lose sight of the fact that Toronto is the financial capital of the country and is much admired for its stability by those who have a lot to lose.

You might say that Toronto has developed, with the blessing of the province, a preferential sort of "front parlour" identity; but with all the time and effort being spent on company coming, the family is being neglected. One wonders what consideration tenants can reasonably expect. I believe first and foremost that they should be able to expect the right to equality before the law, a just settlement of past grievances and a chance to participate in the future.

Bill 51 introduces a power shovel technique. It absolves landlords of five years of rent gouging and private contract breaking and it allows landlords to charge ever higher rents without regard for the public's ability to pay. If tenants need not be informed about information that the rent registry contains, what is the point of establishing one? Likewise, if tenants are not entitled to attend hearings and produce evidence, why have hearings? Why not just admit that rent controls are a thing of the past? Then at least tenants will know that they will have to protect themselves.

At present, even individual contracts are not respected by landlords or upheld by the courts. I see this kind of legislation as a jungle of injustice and a breakdown of law. The choice in this bill is between power and justice, which translates into state control versus people participation. We have been overgoverned far too long and we need people participation more than state control.

The Vice-Chairman: Thank you. That was a very moving presentation. You spoke from the heart. I was touched by it. Do committee members have any questions to ask Ms. Norley?

Mr. Pierce: Did I understand you to say in your presentation that you believe rent controls should be abolished?

Ms. Norley: Yes.

Mr. Pierce: And that we should go back to the free market system?

Ms. Norley: Yes. That is the only hope. With this bill you get bogged down with the breakdown of contracts between people and all the rest of it.

Mr. Pierce: Can I sum it up by saying that you see this whole thing as a bureaucratic nightmare?

Ms. Norley: Yes, absolutely.

Mr. Pierce: What can I say beyond that?

20:30

Ms. Norley: Yes, exactly.

Mr. Pierce: Do you see us getting deeper into that mire?

Ms. Norley: Yes. I believe we probably need the direction of the city and of people who are ambitious, but there has to be a regard for people. If 15,000 or 30,000 people are already homeless, I do not see that regard for people here.

Mr. Pierce: I am going to ask a question to which I may know the answer. Are you a landlord or are you a tenant?

Ms. Norley: At present I am a tenant. I have been a small landlord in the past, but I am primarily concerned with basic human rights. We have had a bill of rights in this country for five years. No attempt has been made to implement it. In fact, there is a trial in the city now about freedom of speech. One of the things we should be worried about or questioning is what those basic rights are. Is Canadian citizenship the right to freeze in the street? Housing is pretty basic.

The Vice-Chairman: Does any other member of the committee have questions?

Ms. Caplan: The only thing I would say to you, and I am privileged to say it, is that I think we disagree on the point, but we have made a very good case for why tenants need protection, given that we do not have housing supplies and there are waiting lists for public housing.

I hope you realize that this bill was drawn up by a group of landlord and tenant representatives trying to come up with something that would be fair to landlords and fair to tenants. We have heard many landlords criticize it, saying it has too much protection for tenants, and we have heard tenants come forward and say there was not enough protection for tenants.

I disagree with you. I think rent review in Ontario is here to stay, and there has been a recognition of that by the industry. Tenants must be protected so that they have a place to live. I want you to know that I disagree with you on getting rid of rent controls or rent review. We have to treat people fairly in this process and make sure we have the kind of tenant protection that will make sure that people have a decent place to live.

Mr. Taylor: Mr. Chairman, if Ms. Caplan is finished--

The Vice-Chairman: Wait a second. Ms. Norley might like to respond. Would you like to respond to that?

Ms. Norley: Yes. If you are concerned about people having a decent place to live, then how is it that you have 15,000 or 30,000 homeless? I do not know what the figure is exactly. Why do you rely on the Salvation Army to provide the housing?

Ms. Caplan: The provincial government and the minister have announced a dedication of \$500 million for the building of social housing--

Ms. Norley: All over the province.

Ms. Caplan: --all over the province.

Mr. Taylor: Over what period?

Ms. Caplan: Over the next five years. He has announced in this year more than 16,000 social housing units. The numbers you are quoting are for people who are awaiting public and social housing. At this point they are not homeless. They are having difficulty paying the rents where they are, but the minister has been addressing that. I hope you will agree with me that this is a problem that has evolved over the past 10 years. It is unreasonable for anyone to expect that it can be solved immediately or overnight. While it is being solved, we must make sure that tenants are protected. We cannot abandon the tenants.

Ms. Norley: I do not agree with the statement that this is all in the aid of tenants or in the aid of people, seeing that they have a decent place to live. I have a feeling that this bill will probably send people who live in the lower-rental houses out to the satellite cities so that they have the privilege of coming in here for the football games or to be medicated or something such as that. I do not think they are going to be able to afford to live in this city. This city might very well be taken over by people from other countries or by the élite, wealthy people. I do not think you want people who are at the lowest level in this city, from this legislation. I am really concerned about the effect that this type of legislation has on things such as the law.

That is really all I have to say. I am not an expert in the building business.

The Vice-Chairman: Thank you, Ms. Norley. We appreciate your presentation.

The committee will adjourn until tomorrow afternoon at one o'clock.

The committee adjourned at 8:35 p.m.

STANDING COMMITTEE ON RESOURCES DEVELOPMENT
RESIDENTIAL RENT REGULATION ACT
THURSDAY, OCTOBER 2, 1986
Afternoon Sitting



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Gordon, J. K. (Sudbury PC) for Mr. Pierce

McKessock, R. (Grey L) for Mr. Epp

Clerk: Decker, T.

Staff:

Richmond, J. M., Research Officer, Legislative Research Service

Witnesses:

From the Ministry of Housing:

Curling, Hon. A., Minister of Housing (Scarborough North L)

Peters, F. H., Director, Rent Review Division

Laverty, P., Director, Rent Review Policy Branch

From Metro Tenants Legal Services:

deKlerk, J., Staff Lawyer; Spokesperson, Tenants' Umbrella Group

Blazer, M., Director, Law Reform

Individual Presentations:

Latrémouille, C.

Shainhouse, C.

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON RESOURCES DEVELOPMENT

Thursday, October 2, 1986

The committee met at 1:06 p.m. in room 228.

RESIDENTIAL RENT REGULATION ACT
(continued)

Consideration of Bill 51, An Act to provide for the Regulation of Rents charged for Rental Units in Residential Complexes.

The Acting Chairman (Mr. Reville): The resources development committee is now in session. The first deputation is from the tenants' umbrella group, it says on that list, and also Metro Tenants Legal Services.

I see Mr. deKlerk is here. Before you begin, Mr. deKlerk, why not get everybody organized? Ms. Caplan?

Ms. Caplan: If I may, I would like to notify you and the committee that, unfortunately, I have a long-standing prior commitment and I will have to leave at 1:30 and hope to return by 3 p.m. It is a meeting that was established before I knew this deputation was going to be here. I assure them that I will read their brief in full. Even though I will miss their presentation, I will also read Hansard to ensure that I am able to respond fully to their concerns.

The Acting Chairman: Thank you. Mr. Blazer is joining the deputation. Is Mr. Hope going to be with you as well? He is going to be taking pictures, is he? Everybody will smile.

We have your brief in an attractive cover, and it seems to be very long, Mr. deKlerk. Can you take us through it in whichever way you think is best?

METRO TENANTS LEGAL SERVICES

Mr. deKlerk: Thank you. The way we would suggest we proceed is for Mr. Blazer to give some introductory comments. Following that, I am going to go through the brief. What I would suggest, because it is lengthy, is that we deal with it section by section and that we deal with any questions as we go through each section. Otherwise, I may have forgotten what I have said and you may have too. Perhaps we can have more fruitful discussion that way. I will then leave it to Mr. Blazer to introduce the brief.

Mr. Blazer: I would like to thank the committee for affording us this opportunity to make our submissions. We seem to have been granted a substantial time slot and I hope we can keep your interest that long and keep the discussion going.

First, to tell you who we are, the tenants' umbrella group is a body that came together to co-ordinate the tenant position that was being put forward to the Thom commission, with which I am sure most of the members of the committee are familiar. It was a pretty extensive inquiry into the whole rent review system.

We are primarily case workers who are practised in the area of rent review and related landlord-tenant types of proceedings. We are lawyers and community legal workers. We also have representatives from the Federation of Metro Tenants' Associations.

Our view of how rent review has worked under the existing legislation and how it may work under the proposed bill is based on something of an insider's view. Perhaps that distinguishes us from other tenant representatives who have appeared before the committee in that we have been lucky enough to have fairly wide experience with the way this legislation works out in practice. That is the basis on which we will be making our comments on the details of the proposed legislation.

As a sort of overview, it goes without saying that our view of the function and purpose of rent control legislation, and indeed the function of the entire rental housing market, is quite different from the view the committee has been hearing from the Fair Rental Policy Organization of Ontario and the various landlords, both groups and individuals, who have appeared before the committee.

I would like to comment briefly on what seems to be the general view being put forward by the landlords, which in our view, unfortunately, seems to be gaining wider public acceptance and some credence among members of the public and politicians.

I think I could sum up their view in terms of three highlights, salient points they seem to hammer over and over again. One is the view that rent controls disturb the marketplace. The corollary of that is that rent controls are a primary cause of the housing crisis we are in, the rental housing shortage. Indeed, many of the arguments made by landlords take this view as an assumption, as a starting point.

We submit to you that this is a false view. Much of the research that purports to support this view is seriously flawed. It is beyond the scope of what we are here to do today to get into the details of that. However, I would recommend as required reading for anyone who is interested in that question a paper that was prepared for the Thom inquiry by David Hulchanski, an economist in British Columbia. It is called Market Imperfections and the Role of Rent Regulations in the Residential Rental Market. Largely, it is a critique of the methods that have been used to support the view that rent controls lead to a restriction in the supply of rental housing.

Historically, no one can deny that the rental marketplace in Ontario was seriously distorted prior to the introduction of rent controls. In fact, it was the result of that distortion that made it politically necessary to bring in rent controls. It is an extremely simplistic argument to say that the vacancy rate has continued to decline since controls were introduced; therefore, controls must be making the situation worse. That analysis ignores the myriad of other factors that impact on the desirability of rental accommodation as an investment as opposed to other investment options and the other economic and market factors that are at play. In our view, we were seeing the results of those other factors in the early 1970s before rent controls were introduced.

The second main point landlords like to make is that rent controls, certainly in their existing form, have been unfair to landlords and have unfairly restricted their profits. Again, as people who have seen how the rent

review system works in a wide range of its applications, we disagree with that view. We have to recognize that if we were landlords, we would probably want to create that impression. I do not blame them for wanting to create that impression, but in our view, it is not a completely honest submission when they come before you and tell you that they are being driven out of the business and are suffering. They illustrate this with little anecdotes about tenants who have higher incomes than the owners of the properties.

There are a couple of problems with that analysis. One is that it misrepresents how rent review actually works. In other words, if you do not know the details of how rent review works, then you cannot assess the results. The general state of knowledge about rent review and rental economics in general is pretty basic. That is often illustrated from our point of view when we represent tenants at rent review hearings. They get the results, 10 per cent or 12 per cent rent increases. After having gone through this whole process, people say: "What happened? We thought six per cent was the limit on rent increases."

Of course, the guideline is not a limit on rent increases. It is also not correct to say that all rent review does is maintain the landlord's operating margin at a constant level. It can do far more than that for the landlord. We will be getting into some of the details of how that works and some specific provisions of the present legislation in our brief.

The other side of the question, and probably the more important one, is that analysis which focuses on only the operating side of the business ignores completely the investment side of the business. Rental accommodation as a form of real estate investment is no different to other forms of real estate investment. The operating side is not the major factor for the investor. It ignores a whole host of other sources of profit and sources of return on the investment, such as capital gains, increase in equity, benefits that flow from leverage, tax deferrals and on and on. When we are talking about rent review and landlords' operating profits, we have to remember we are ignoring that whole side of the business, which is in our view more important and which has, in terms of real return on investment, a much greater impact than mere operating profits.

Whether it is unfair to landlords, they like to say that of all segments of society, only they are controlled, which they see as unfair. A couple of days ago, we heard one submission suggesting they would be preparing a challenge to rent control legislation on the basis of the Charter of Rights. Many other segments of our economy are controlled. It is important also to keep in mind that if a particular area of investment becomes less attractive than other areas of investment, capital is very liquid and you are not ruining somebody's life.

Investors can choose to invest in an A, B or C type of investment, but the consumers of rental housing do not have that choice. When we are talking about equities, that is an important point. We are talking about people who, by and large--and there are, admittedly, exceptions--do not have the option of going into the ownership market. The only other choice they have is to be out on the street. You do not have a choice about whether you want to obtain accommodation; it is a necessity of life. An investor has a choice about what he wants to invest in.

The last point landlords have been making over and over again that I will mention--and it has gained them a lot of sympathy--is that rent controls

are a very inefficient method of income redistribution. Their answer to this is: "Let us do away with rent controls and give assistance to those who need it. Let us give shelter allowances to those who cannot afford to rent on the private market."

With respect to that point, in terms of inflation-adjusted dollars, the real incomes of renter households in Canada have gone down during the past 10 or 15 years. Real income in terms of inflation-adjusted dollars of owner households has increased during the same period. That is the general trend and we suggest, notwithstanding that a particular landlord may have a wealthy doctor or professor living in his building, the exceptions do not disprove the general rule.

13:20

It is admitted that rent controls are crude as a method of income redistribution. As landlords say, there are tenants who can well afford to pay more rent and there may be landlords who have less income than some of their tenants. These are the exceptions, not the rule.

Rent controls are equitable as a very general and crude form of income redistribution, but they are necessary to further other societal goals having to do with preserving the affordability of our rental stock and keeping it available to as wide a segment of the population as possible. That is not merely a question of income redistribution, given that housing is such a crucial fact of life. Housing is what our neighbourhoods are built on and, when you get right down to it, our society as well. It becomes all the more crucial in the Canadian climate.

With respect to the landlords' suggestion of shelter allowances, I would submit that it is merely politically expedient for landlords to make this argument. It puts a very humane face on things. It helps to counter the impression of the greedy landlord who is acting only in his own economic self-interest. I do not blame them for putting forward that argument.

The problem is that if you have shelter allowances without rent controls, you will not accomplish anything. American studies have shown over and over again that where this is done, market rents rise in accordance with the shelter allowance. If the rents are not controlled at all, they will absorb whatever enhanced ability to pay exists in the consumer market.

I have already talked longer than I wanted by way of introduction, so I will turn it over to Mr. deKlerk to go through our brief section by section.

The Acting Chairman: Did you want to ask a question on the introduction, Mr. Taylor?

Mr. Taylor: I appreciate your presenting the two positions. The danger of that is in the generalization of talking about "greedy landlords." In sitting on this committee, I have heard a litany of lament by little landlords, who have worked by the sweat of their brows to buy a little apartment of maybe a few units and who find themselves in desperate conditions. I distinguish their situation from that of more sophisticated, larger landlords who are able to work the system and generate an economic return.

I put it to you that there is a danger in generalization, because we have seen people in tears--at least I have--at this committee. Last evening,

we heard from a gentleman who feared losing his little 12-unit apartment building. I have talked to people in the hall who were afraid to make a submission to the committee. They showed me their hands to illustrate what they have tried to achieve through the sweat of their brow, in spite of the situation in which they find themselves today.

It may be that they have not taken advantage of the legal opportunities open to them to improve their cash flows, but I point out the danger, in my view, of using statistics, which generally can be used to prove that anything can be proved by statistics. I appreciate that, and that was the only point, without being argumentative in terms of the two positions we are hearing.

You put to the committee the proposition that the shortage is not due to rent controls. The fact remains that we have builder after builder or owner after owner coming in here and saying, "We are not going to build while you have rent controls." Maybe the rent controls do not have the impact they perceive them to have, but the perception is there that motivation is lacking in terms of even considering further development of rental accommodation.

You are talking about the real world, and your brief has been introduced as a presentation that indicates how things happen in the field as opposed to reading some dry legislation. There are a lot of human elements involved on both sides, hard cases in connection with tenants and hard cases in connection with landlords. Of course, the committee has received an even harder problem in trying to address the real concerns of people who need shelter.

The Acting Chairman: Mr. Blazer, would you like to comment on the small landlord issue he has raised? We do not want you to get into too long a thing, because we have a--

Mr. Blazer: I do not propose to be argumentative. I just want to clarify my comment about greedy landlords. I was not saying we think landlords are greedy. I was saying landlords have to face the fact that there is a public perception of that. I do not blame them for trying to combat that image.

I do not know the details of the hard luck stories you have been hearing, but for every landlord in tears there are probably 100 tenants in tears. We concede your point that statistics show overall trends, and that does not deny the fact that there may be some landlords who are having a very hard time. Whether that is due to rent controls or whether that is due to their having made bad business decisions or not having expertise to manage their investments properly, I do not know. Maybe some relief should be available to those landlords who, in good faith and not through their own incompetence, have got themselves into problems, but not at the expense of tenants.

The Acting Chairman: Thank you, Mr. Blazer. Mr. Bernier had a comment or a question.

Mr. Bernier: To follow up on your strong defence of rent controls, do you have a comment to make with respect to other jurisdictions that have had rent controls for some considerable time now and are moving away from them?

Mr. Blazer: There is a problem in making comparisons because the term "rent controls" encompasses a whole variety of types of controls. Economists refer to first and second generation controls. Within second generation controls, there are dozens of types. It is of questionable value to

compare the effects of one type to another, because the way they actually work out can be quite different. For example, rent controls that reflect refinancing costs on a resale of a building versus rent controls that do not will have dramatically different effects.

I noted, for example, a couple of weeks ago an article by John Sewell about the removal of rent controls in France. I thought it was interesting to note in that article that the rate of construction of rental accommodation was expected to increase. This was the accepted wisdom, but it was already at a pretty phenomenal rate. I do not remember the figures, but it was in the hundreds of thousands of units per year. They were expecting a 10 or 15 per cent increase in the rate of construction.

You can find all kinds of examples. When people show you pictures of the south Bronx that look like Dresden after the war and say, "This is the result of rent controls," that is a very simplistic analysis. You have to look at what kind of rent controls they have there and what other factors are at play there. Southern Ontario is not the south Bronx and our system of rent control is quite different.

13:30

Mr. deKlerk: If I may add something to that, one of the difficulties of assessing the effect of any kind of rent control or rent review is the comparison. For example, if you want to assess what has been the effect of rent review in Ontario, what do you compare it to? If you want to compare it to the pre-rent review period, your difficulty is that the economic factors may have been quite different then; therefore, your comparison is totally inappropriate. Nor can you easily compare what is happening in Ontario with what is happening in Saskatchewan or Alberta because, again, the economies are quite different.

That is one of the difficulties of the Canadian political system, because rent controls or the regulation of rents are under provincial jurisdiction. The American situation is quite different. The rent regulation is a matter of municipal regulation. As a result, you can compare one city that is right next to another city, and the one may have rent regulation and the other may not. There have been some studies done. Interestingly enough, their conclusions are that there may not be very much impact at all. In other words, in some cases where there are rent controls or rent regulation, the rents are higher than where there is no rent regulation.

That is one set of studies. There are other studies which show the opposite. The conclusion is that no one has done any kind of a definitive study. I wonder whether it is possible even to say what are the effects of rent regulation on the overall market.

The Acting Chairman: Would you proceed to take us through your brief. Oh, Mr. Gordon is now inspired. I am giving you the benefit of the doubt.

Mr. Gordon: I thought you may have said expired.

The Acting Chairman: People normally get quieter after they expire rather than louder in my experience.

Mr. Gordon: How do you react to the point made by some experts in Ontario, who are not landlords but are government people, who say our rental apartment stock, both high-rise and low-rise, is deteriorating rather rapidly and that great strides will have to be made and great amounts of money spent in order to renovate, repair and so forth? How do you relate that to what some people say, that it is because of rent controls that the assessed value of buildings has gone down? There has not been the return; therefore, buildings are falling into a state of disrepair and south Bronx is only 20 years away. How do you respond to that?

Mr. deKlerk: The deterioration of housing is a real problem that has to be addressed. I am not sure this bill does it adequately because it does not provide specific ways of doing it. It is still at the initiative of the landlord to do the repairs. That is the problem. That is the way it has been all along.

Our current system of rent review says that for every dollar a landlord spends on his building, we are going to give him at least one dollar in return. I say "at least" because there are circumstances in which the recovery by the landlord is greater than the actual amount spent, and that has to do with issues of costs no longer borne and write-off periods.

The current system should be an incentive to landlords or, at the very least, landlords should be neutral. The system is a neutral system vis-à-vis those kinds of repairs. It then becomes a matter of attitude. Why do landlords not do it? We are into the situation of where people who own and operate buildings often are there strictly for an investment. They are not like the old type of landlord, with which perhaps members of the committee may be more familiar than I. They have expired.

The Acting Chairman: Are you looking at the chairman?

Mr. deKlerk: People got into housing because that was what they were interested in. They wanted to build and operate housing and that was their investment area. Those people tended to care for their buildings more than the typical landlord does today. The problem is that housing is deteriorating and our stock is deteriorating, and it takes a lot of money. Somehow or other, we have to develop a system which will not only say, "The money is going to be there; you will recover your money," but which will also say, "You have to do it." Until now it is quite clear that the money has been available and landlords have not done it.

Mr. Blazer: The other factor in that equation is that our current rent review system discourages long-term ownership to a certain extent. It provides that your maximum profit will be realized if you do not hold a building very long. We will be detailing that in our brief. The results of that in terms of the long-term deterioration we are talking about is obvious. Why should a landlord who is going to buy a building and hold it for two or three years really care about those long-term maintenance problems?

The Acting Chairman: Why do you not launch an opinion? I am sure that will inspire other questions. It has inspired Mr. Cordiano to disappear--no, he has not.

Mr. Cordiano: I will be back.

Mr. deKlerk: Thank you, Mr. Chairman, and the minister for coming to listen to us.

Interjection.

The Acting Chairman: It is easy to say that now.

Mr. deKlerk: The first part of our brief deals with coverage and exemptions. I am happy to say we are starting off on a positive note with regard to the first couple of issues we raise. We are generally pleased that coverage of the rent review system in Ontario will be expanded to include more units than were included before. That is a positive note. We feel there is no justification for excluding any housing units from the rent regulation system in Ontario.

As Mr. Blazer has already indicated, housing is a very important part of the lives of the people of this province, and to the extent that they do not have adequate and affordable housing, the rest of the problems in their lives are generally exacerbated. From a social perspective, we want to fight. We want to make sure that the basis of people's lives is positive rather than negative. In our view, the extension of regulation to more units is a positive one. I will come back to that issue when we talk about the post-1976 buildings, because that is the major addition, and we think there are still some problems there.

The other positive thing relates to one of the exemptions we discussed in our brief, but I will not have to discuss it because it seems the minister has already proposed a change. I do not know whether he got an advance copy of our brief or whether we were just on the same wavelength. We were concerned about the hotel-like exemption. I see the minister is now proposing a change to the coverage to limit it to hotels. There are a few more. We have had extensive problems with the hotel-like accommodation; so we are happy to see that is now being straightened out.

The Acting Chairman: "Incredible sensitivity," the minister is mumbling here.

Mr. deKlerk: Well, we appreciate it.

We hope it is a sign of things to come that as we go through the brief, you will feel that way about more and more of our proposals.

There is one other little problem I think the committee should address. It is not really referred to in the brief. I should say to the members of the committee and to the staff of the ministry that we received the amended bill long after the main part of this brief was prepared. Therefore, many of our comments do not reflect the changes that have been made. If you will bear with us, certainly to the extent that our recommendations are incorporated, we will be pleased to join hands and see that they find their way into the final bill.

13:40

The Acting Chairman: Before you carry on, Mr. deKlerk, it should be noted that the reprint has the proposed amendments by the government. It should not be called an amended bill at this stage.

Mr. deKlerk: Okay.

Mr. Taylor: We just recently received it; so we would not recognize the difference anyway.

Mr. deKlerk: I have just one small matter. There is a problem under the current legislation dealing with new units in existing buildings. When I say "new units," I mean something after 1976. This is referred to very commonly as the section 128 problem under the Residential Tenancies Act, where people do extensive renovations and get a so-called exemption for new units; then essentially they are free to set the rent.

That is a problem that is not really dealt with by the bill. Although the new buildings are covered, there is no system for setting the rent on a new unit within an old building. We encourage you to address that problem, because it has encouraged a wide range of schemes to avoid coverage under the old legislation. We did not address that in the bill. I just want to alert you. Perhaps this is something that can be discussed later.

The other concern I mentioned very briefly with respect to exemptions relates to a more general problem that we will cover in other parts of the bill, and that has to do with student housing exemptions. The provision is that student housing is exempt as long as there is some sort of consultation between the university or institution and the student or some organized student body. We are not very happy with words such as "consultation," because it does not necessarily result in anything. It may, and to the extent that it does, that is good, but we think there should be some structure that people have to go through, some procedure that is instituted.

We will come to the same problem when we speak about dialogue, whether it is meaningful dialogue, ongoing dialogue or whatever. As long as there is no required procedure for people to do, they sit in the room for 10 minutes and talk about who knows what. Then there may have been dialogue, but it does not necessarily address the issues and it does not necessarily require that people's views are listened to in establishing the criteria that have to be dealt with.

Mr. Taylor: As politicians, we have a lot of experience in that area.

Mr. deKlerk: I am glad you said that.

Interjection: Some politicians.

Mr. deKlerk: Some politicians, of course.

Those are the comments we have with respect to exemptions. As I indicated, I am prepared to deal with any questions on each chapter as we go through. The next chapter will be maintenance.

The Acting Chairman: Mr. deKlerk, recommendation 5 on page 5 of your brief with respect to student accommodation rings a bell with me. I have been getting correspondence from some students who object that their rents are going up by much more than the rate of inflation. They also object to the way management has done it in their student residence.

I got a letter today from a student, who advised that a particular student's name had been circulated to all the other students in the building because she had let in some rowdy people in the middle of the night. The objection raised was that this was not an appropriate way to deal with that

problem. There does not seem to be any mechanism to deal with it. There is no counsel at all in respect to the student residence. Your point about consultation is well taken; clearly, there was no consultation in this case.

Mr. deKlerk: The simplest analogy to draw is the exemption that exists for co-operative housing. Nonprofit housing corporations are exempt as long as they have a specific bylaw which requires that a process for determining the rents is followed.

It seems to me this is the kind of thing where, if there is a structure in place with the university to determine what the rents are, if that structure includes the involvement of the students, possibly through a vote of the students, and if the housing is operated on a nonprofit basis, then it is fine to exempt them. I think most students would be happy with that. But if those kinds of provisions are absent, if the university is operating in a manner that is no different from that of some private landlord down the street, I do not see any reason they should be treated any differently.

Incidentally, I can advise the committee that as late as yesterday there was a decision of the Divisional Court dealing with the issue of a municipality, in this case Metro, that owned a home. It was run by an individual who had no relationship with the municipality and he was running it as a private rooming house. The decision of the Divisional Court was that those premises were exempt because they were owned by the municipality and that is an exemption. That particular problem as it relates to a municipality is dealt with in Bill 51, and we are happy with that, but the point illustrates that any public institution may be functioning no differently from a private landlord. It is our submission that, to the extent that it does so, it should be treated as a private landlord and should be subject to the act.

Mr. Cordiano: Do you have a specific recommendation to suggest what you mean by "meaningful student input"? You have referred to that. Do you have some specific suggestion you would like to make?

Mr. deKlerk: As I indicated, an appropriate mechanism would be a provision in the charter or some sort of statement by the university that it is operating the housing on a nonprofit basis and that the rents would be determined only after a specific process, which may or may not involve a vote on behalf of private students, to approve a certain rent. That is the mechanism that exists to exempt co-operative housing, and it seems to us that it is an appropriate one.

Mr. Cordiano: In your view, would you see student housing as being on the same level as co-op housing?

Mr. deKlerk: It is social housing; it is not private housing, profitable housing. To the extent that it is private housing, it should be treated as all other profitable housing is.

Mr. Cordiano: I would say it is public housing.

Mr. deKlerk: That is what I mean by "social housing."

Mr. Cordiano: Okay.

Mr. deKlerk: The next issue is the matter of maintenance, and if my experience is indicative of anything, maintenance is the single largest problem with housing and the current review system today. I should say,

subject to certain qualifications I will get into, that system is maintained in the present bill.

If you look at clause 72(f) of the bill, where it sets out the criteria the minister can consider, it says, "The findings of the minister concerning a change in the services and facilities...or in the standard of maintenance and repair." Members of the committee would be able to count on the fingers of one hand the number of cases where bad maintenance has had any effect on the rents the commission has allowed. They are so few and far between that the present provisions in the legislation are virtually meaningless. As I say, that is to a great extent simply duplicated in the present legislation.

The caveat on this now is that the maintenance board is to be set up, the minister will have the authority to issue a staying order on a rent increase, and that staying may result in the forfeiture of a rent increase by a landlord if there is not compliance.

Our concern with the maintenance board is that, the way it looks right now, we do not know when it is going to be instituted. That is a real problem because we cannot wait. Mr. Gordon made the point that housing is literally falling apart in many parts of the province; certainly in the city of Toronto. We cannot wait to solve some of those problems. The maintenance board has to be implemented as soon as the rest of the bill is put in place. Following the implementation of this bill, the first increase allowed should also be subject to the maintenance board provisions. That is our first point: the timing of the maintenance board is critical.

13:50

The second is that the criteria the maintenance board is going to look at have to be more quickly established and have to be the minimum standards that are going to be looked at. They also have to be looked at in conjunction with the municipal standards, wherever they exist throughout the province. It is our recommendation that, in some cases where the municipal standards are not very good, the provincial standards should be the operative ones. In other words, if you have two sets of minimum standards, the higher ones, those that reflect better the purposes of maintaining the standard of housing, should be the operative ones.

Mr. Cordiano: Do you not think that will create a two-tier level of standards?

Mr. deKlerk: No, it will not. As long as the provincial standards are higher than the municipal ones, than all of them, you will have one standard; that is, the provincial standards. Those are the standards that will go into effect for the purposes of considering rent increases.

Mr. Cordiano: If you have a municipal standard that is higher than a provincial standard, which may turn out to be the case in a number of instances--

The Acting Chairman: Then you have better buildings.

Mr. deKlerk: Then we have better housing.

Mr. Cordiano: That is fine and good, but it is not good for a person living in another city who may argue that it is not up to par.

Mr. deKlerk: The establishment of uniform provincial standards is going to be a long process. Ultimately, there has to be some local input and perhaps finally some local control over the building standards. Those standards will reflect all the local concerns, whatever they might be, but also they have to meet the minimum standards established by the province. There are many municipalities that right now do not have municipal standards.

Mr. Cordiano: So you would envisage some--

The Acting Chairman: Mr. Cordiano, this is very dynamic, I know, but Mr. deKlerk is at item 3 of seven in this section. Perhaps you can save your comments until he gets to item 7 and then we will let you have at him again. I will put you down as the first speaker at his conclusion. We are on page 12 of 13.

Mr. Cordiano: I was free flowing as we were going along.

The Acting Chairman: I know. It was so fascinating.

Mr. Cordiano: You were so obliging I thought I would carry on.

The Acting Chairman: Persevere, Mr. deKlerk.

Mr. deKlerk: I tend to like interruptions, actually. You will have to be very disciplined with me, Mr. Chairman.

The Acting Chairman: I know that, but persevere.

Mr. deKlerk: It is much easier than getting no feedback whatsoever.

As I indicated, the time limits are one thing and the general standards to be established are another. The third thing we are concerned about is the enforcement of the standards. There has to be sufficient staff to make sure the standards are met. That is a real problem because there is nothing in the bill to suggest there is going to be any provincial staff in cases where the municipalities have either no staff or inadequate staff.

One example you might think about is the city of North York, which may be the largest city in the province in terms of population--

The Acting Chairman: You had better not get into that.

Mr. deKlerk: That city has only nine property standards inspectors, which is woefully inadequate for its size.

The other problem we have is with the fact that the minister has some discretion on whether there is going to be an order staying or forfeiting the rent increases. Our difficulty with the discretion is that if all there is is some drippy tap which violates some standard, perhaps we do not need to be overly concerned. It is not, for example, the same level of concern as we would have for a totally deteriorated heating system. If the exercise of the discretion had certain criteria attached, we might be more comfortable with it.

My question is, if a landlord is in violation of any standard, why should the tenants be paying a rent increase? To answer my own question, if the violations are quite unsubstantial and insignificant, then obviously it is no big deal for the landlord to fix them. It could be done very quickly, so he would not lose anything as a result of his rent increase. Our concern is

simply that there is, in our view, no justification. The problem is, if you have a little problem and you let it go, and you have another little problem and you let it go, finally you will have a big problem.

Hon. Mr. Curling: You think about discretion on any act-of-God type of thing, such as the flooding we have had, that destroys a building.

Mr. deKlerk: The difficulty with it is that the flooding a landlord experiences is for him a problem to be solved. He has to come up with the money, but the tenants have to live with it. If you look at the equities, what can tenants do and what can the landlord do? The tenants cannot do a thing about it, because it is not their building. The landlord can act quickly.

In the situation as set out in the bill, where, if there is noncompliance and a stay of the rent increase for 180 days--assuming there is a rent increase coming up right away--then the landlord has six months to fix it before he loses anything, so why do you need to lift the stay?

Mr. Taylor: Are we leaving acts of God to ministerial discretion?

The Acting Chairman: I certainly hope so.

Hon. Mr. Curling: I have been walking on water, as they say. Do you understand why I raise that? It is not about leaving it to the minister's discretion. There are incidents that could happen which would delay--

The Acting Chairman: When the Don River appears on the eighth floor of your building, it is a very interesting idea to worry about the Don River.

Mr. deKlerk: The other problem we would like to get into with regard to maintenance relates to capital expenditures. There is a provision in section 93 whereby the minister can refuse in whole or in part a capital expenditure where it is "substantial and became necessary as a result of the landlord's ongoing deliberate neglect."

With respect, I do not think we will ever be able to prove that, because to show it was deliberate and neglectful establishes an onus that is not present even in most criminal proceedings. With respect, it is going to be impossible to do anything about that. The question the tenants ask is, why does it matter how the capital expenditure came to be required? If it was neglectful, deliberate, or simply needed to be done, if it is unnecessary or if the landlord has not been doing his work over the years, why should the tenants be paying for it again?

14:00

My final comment with respect to maintenance is, in addition to what is stated in the brief, we would like to see that an inspection be done prior to the hearing of any application. In other words, if a landlord is not going to be satisfied with whatever guideline increase he is entitled to, if he wants to apply to the commission or to the minister, then we think an inspection of the premises ought to be done at that point.

The difficulty with leaving it to the tenants is that it possibly subjects them to all kinds of intimidation. For example, right now any tenant can call up a municipal official and say, "I would like my apartment inspected." The first thing the inspector does is call up the landlord. Tenants feel that opens them up to a lot of harassment, unequal treatment or intimidation.

Similarly, we feel that if the onus goes to the tenants to call in the inspector and say, "Let us make sure this thing is up to standard," then it is going to expose them to this sort of thing. We feel this would be an appropriate way to ensure that properties are regularly maintained. If a landlord wants to make an application, part of the application is to certify, in the same sense that you have to certify the rents prior to an application, that the building is up to a proper standard.

Those are our submissions.

The Acting Chairman: Mr. Cordiano is on the list.

Mr. Cordiano: I will pass on that.

The Acting Chairman: In terms of the inspection, does it make sense to you that when the application is filed with the minister, at the same time a recent inspection report would be filed? Is that how you think of doing it?

Mr. deKlerk: We think as soon as an application is filed the minister would say to one of his staff, "We have an application; go do an inspection." That report would then be filed along with all the other documents.

The Acting Chairman: The problem you may have with that is that we are not clear whether the minister has any staff to send out to do such an inspection.

Mr. deKlerk: That is a critical part of our previous submission. If there is not any staff, then the whole program is useless.

The Acting Chairman: Mr. Cordiano is now inflamed.

Mr. Cordiano: Inspired, Mr. Chairman. I think it is fair to say that at the Rent Review Advisory Committee meeting we had some discussion about this maintenance standards board and what might come out of that discussion in RRAC. It is fair to say that discussion is ongoing right now. We hope it is expedient and there is some sort of consensus on what that standards board should consist of and the specific details that the standards board will be enforcing and will come before this committee with in the near term.

Mr. deKlerk: I would like to say something and Mr. Blazer will say something, too. The difficulty with that is, as I said before, maintenance for tenants is one of the most important issues--

Mr. Cordiano: I agree.

Mr. deKlerk: --and if you are suggesting that what tenants ought to do is say, "RRAC has taken care of this. Do not worry about it, it will find its way into the bill," that is totally unacceptable.

Mr. Cordiano: No. I was speaking from the point of view of this committee that we are anxious to hear from the RRAC group with regard to the specific elements that would be comprising the maintenance standards board.

Mr. deKlerk: I think we are all waiting to hear from them. With respect, it is a bit late because you have had your public hearings already. Today is the last day. How are people now going to comment on what RRAC comes forward with?

Mr. Cordiano: The point is that the RRAC has tenant representatives and landlord representatives. I think it is fair to say they would be given an opportunity to come up with some specific proposals on how to deal with the question of maintenance.

Mr. deKlerk: The Rent Review Advisory Committee has made its report and we have the bill; so to the extent that your position is correct, we do not have to have these public hearings.

Mr. Cordiano: That is not necessarily true. Obviously, we are having them--

The Acting Chairman: All right, gentlemen, let us move on. You will get a chance to stick it in a little later on probably.

Hon. Mr. Curling: The maintenance standards board is a very important part of the bill, and the tenants emphasize that. We are not just going to shift it off in an idle way. I hear what you are saying, and we will be looking at it very closely.

The Acting Chairman: The minister will be holding the bill back until this is all resolved.

Mr. Taylor: Do not say that.

The Acting Chairman: He did not deny it.

Mr. deKlerk: That brings us to the rent registry. There has been a lot said about the registry and we are going to say a bit more. I want to divide it into two parts. One is the forward-looking part of the rent registry and the other is the past.

I will deal with the forward-looking part of it first because that is quite simple. We are quite happy with it. There is no magic to it. Once you have it in place, then it is there and it should run quite smoothly. It is not a difficult system to implement. I wish the Legislature had proclaimed section 33 of the Residential Tenancies Act in 1979, because then we would not have to talk about this today. There is no problem; the government could do it tomorrow, if it wanted to. We would have then a registry right away. There is nothing in section 33 which is unconstitutional or prohibits the Legislature from doing it. So the forward-going parts of it are all right.

What are the problems with the parts dealing with what has happened since 1975? There we are dealing essentially with landlords who, as I think one deputant told you, have been stealing from tenants consistently. In our respectful view, there are very few, if any, pieces of legislation where the stamp of approval is given to thefts of that nature.

These landlords have broken the law and they are now being given an amnesty. They will not have to pay back that money. We see no justification for that whatsoever. It is not theirs. It gives a very mixed message to those people who, for the last 10 years, have been abiding by the law, collecting legal rents. Now they find out they were fools; they should have been charging as much as they could and they would have got away with it.

That is the first problem we have. If a tenant can show by whatever means that he or she has been paying an illegal rent and can satisfy the

commission or the court or whatever, that tenant should not be prevented from recovering that money and from paying what is illegal rent.

The second problem is that where the minister does the investigation, we are not satisfied that the undertakings that have been given, which are that we are going to look at whatever we can, are going to be followed. We think that it should be part of the bill to say that the minister shall do as broad an investigation as is possible to determine whether the rents are legal. Quite frankly, we have seen too many cases where there is information in those old files which is consistently disregarded.

The minister has the easiest access to them. They are credible bits of information still for tenants to prove what the rents are, and there is no reason the minister should not uncover them and give them to the tenants. We think the minister should be more thorough and it should be in the legislation, so that we have some guarantee that any information that is helpful will be used.

14:10

The other difficulty we have is in respect to what is called "deeming rent increases." Very simply, that is a procedure whereby you say the rent in 1980 was \$400. We know that. Therefore, in 1981, it was six per cent higher, \$424; in 1982, it was six per cent higher than that and so forth until you get to the present. That deeming basically ignores what happened in fact.

In many cases, the deeming works because the landlord took six per cent every year, but there are situations where that did not happen, where a landlord did not take an increase. If we are to believe the evidence that was released in the ministry's study, that something like 50 per cent of landlords did not take guideline increases, then what are we deeming? We are deeming rent increases that never took place.

It seems to me not to make any sense. What we are suggesting is that you can start with a deeming provision, because that is simplest, but that it be a rebuttable presumption. In other words, any tenant who has information to show that the increase did not take place should be entitled to bring that information forward, say the rent is illegal and make that evidence stick.

The next concern I would like to raise is the matter of the various time limits. This all has to do with the amnesty. If you do away with the amnesty, it will make it a whole lot simpler.

A landlord who files within three months gets an amnesty. We think it is too short a time. If he files within three months, he does not have to pay anything back. In other words, he files and says: "Yes, I have been charging illegal rents. It has been a few hundred thousand over the past 10 years, but I admit I have been doing it."

So he files. The law says that then he has to pay back only the rent increases to August 1985. We do not see any justification for that whatsoever. There is no amnesty for the landlord who does not ever file. Again, we agree that landlords should have to file, but we do not think there should be any amnesty.

Mr. Bernier: Does the minister have a comment on this?

The Acting Chairman: Maybe we could wait until we get to the end of this section. The minister is choking.

Hon. Mr. Curling: That is why he asked.

Mr. deKlerk: I think those are all our comments, given the time. There are some additional ones, for example the distinction between substantial and nonsubstantial. What may be substantial for one person is not necessarily so for another. If we are going to make things proper, then let us do it.

There is another really big problem in the rent registry. If a landlord, pursuant to the bill, can say, "All right, I am charging more than I should have been, but if I had gone to rent review, I could have charged what I am charging," he gets what is called a retroactive justification, and that goes all the way back to 1975. That makes a mockery of normal limitation periods that would apply.

For example, under the present law, there was an order from the commission in 1975. If a tenant shows he has paid an illegal rent and he or she has been living there since 1978, he or she cannot recover the rent he overpaid in 1978 and 1979. There is a six-year limitation period. However, a landlord can now go all the way back to 1975 and say, "Yes, I could have justified it then, so I am going to claim it now."

That is an obvious inequity as far as we are concerned. It seems to us that there are insurmountable problems for tenants in fighting an application of that sort. How do the tenants know what work was done three or four years ago? It puts the tenants in an impossible position. It is also patently unnecessary. A landlord chose to take the rent increases without going to the commission. He did it illegally, and that is where it should end. He should have to pay that money back and not say, "But if I had..." It is like being caught stealing and saying, "But if I had paid for it, it would not have been stealing." It does not work. You have to pay retribution when you are caught stealing and you are still guilty.

Mr. Cordiano: I would like to ask the ministry this question. With respect to the deeming provision as it applies to justification by a landlord, is that with respect to the guideline or with respect to what may have been an order issued for granting as a result of rent review hearings? Can that justification be made beyond the guideline that was in place at the time?

Mr. Peters: Section 60 allows for some evidence to be presented that would allow for items that may not have been awarded by a rent review order, on the certification or the recognition of the rent level. That is currently being discussed by tenant and landlord representatives on the Rent Review Advisory Committee.

It seems to me, though, that one of the issues is--and RRAC quite clearly identified this as an area of concern--that the committee has heard ample testimony about small landlords, particularly, who did not take the guideline in some cases--and I am not suggesting it was universal, but surely in some cases as the evidence suggests--because they had, in their judgement, a good tenant or a senior citizen. They did not raise the rent for two years and then raised it by 12 per cent. That is obviously a technical illegality. Under this system that would be recognized as having simply adjusted the rent by the allowable guideline each of two consecutive years. There is no mistake about that.

Mr. Cordiano: You would look at that with respect to the allowable guideline that was in place at the time and that was legal at the time?

Mr. Peters: Yes. For any rent application in terms of the registry, the ministry is now in the process of examining the last prior order for the 450,000 units that have had some history with rent regulation, according to our records. We are taking that order as the legal base rent because the order establishes the legal rent. In terms of trying to compare that with the July 1 rent, if there is no subsequent order, then you are entitled to the guideline.

The base is always an existing Residential Tenancy Commission order establishing the legal rent. If you add up the allowable rent increase guidelines and the rent charged on July 1 is equal to the guideline, it is difficult to suggest the rent is illegal. If there is a variation, the act specifically requires that the case be investigated and that rebates and rollbacks be authorized. That is quite clearly in the act.

Mr. Cordiano: There was some question with regard to the thoroughness of that investigation and whether that should be stipulated in the legislation. My understanding is that the minister has great latitude in dealing with that; that he can call into question any item in the investigation.

Mr. Peters: Under the act as drafted, the minister is required to investigate the rent filed where there has been a prior order. In the act, it says the minister may investigate where there is no prior order. One of the issues that was obviously of considerable concern to the tenant representatives on the Rent Review Advisory Committee was that, given the number of buildings that have no rent review history, what other techniques are available to assist in the examination of what may prove to be the legal rents?

14:20

It seems to me that one assumption which has to be made is that, given the activity under the Residential Tenancies Act applications for rebate and so on, one knows where to begin looking. It still remains that in some cases, though, one also has to make the assumption--and I think it is a fair one--that the rents charged are legal. I should point out that any tenant has always enjoyed the right to file an application challenging the rent, and RRAC discussed what were the appropriate sets of triggers to investigate. It seems me that if there are those proverbial bad actors, they will find it somewhat difficult to hide. They are known to the tenant movement, and I suggest that those investigations will take place.

Mr. deKlerk: If I may comment on that very briefly, the difficulty that tenants face in current section 129 applications--that is, rent recovery applications for illegal rent--is that if they have the previous tenant's records, that is fine; there is no problem. They are going to get their money back. If they have some acknowledgement from the previous tenant, that is fine. We do not have any problem with that.

The difficulty is that most tenants do not have that and cannot get it. If you go to the commission and say, "I suspect, because I have seen the landlord's receipt book, that the landlord is charging me an illegal rent; may I please have a summons to require the landlord to bring it to the commission?" you will not get it. That is the difficulty. That is why, in our

view, the minister should be required, where there is not an order, to make pretty sure before he certifies the rent that it is a legal rent and not simply say, "Most landlords do not, and we have covered most of them because there are orders and we have investigated, so let us just leave things alone."

That is not going to cover a lot of problems and it is going to result in a lot of illegal rents being certified.

Mr. Blazer: It is safe to presume that a higher proportion of the landlords who have never been to rent review--and I can probably give Mr. Peters a list outside in the hall afterwards of landlords who cover hundreds of units in Toronto who have never been to rent review and who never miss an opportunity to raise the rent illegally between tenants--will be charging illegal rents than of landlords who have been to rent review, for the simple reason that the ones who have been there know there is this public record of what all the rents were at a particular time and have always known that if they raise the rents illegally subsequently to that, they are at a pretty high risk of being found out; whereas the ones who have never been to rent review know that their chances of being found out are pretty remote. They are the ones who are more likely to be involved in illegal rent increases.

Mr. deKlerk: I thought the question that Mr. Cordiano asked before was the question of what is the justification for the retroactive justification of rent increases. There are two parts to it. One is that you do the guideline bringing it up to date on the basis of six per cent, six per cent, six per cent, four per cent. The other is that the landlord says, "I could have got 12 per cent in one year if I had applied," although he never applied. The bill now says, "You can come and apply now, and we will give it back to whatever date it was."

Mr. Cordiano: There would have to be records and documents, etc.

Mr. deKlerk: The landlord obviously has them, and the tenants do not have access, because they probably were not there that long ago and they would not know what was going on. If you look at clause 60(1)(b), that is where an a retroactive application for a rent increase greater than the guideline can be made.

That brings us to the guideline increase. Our comments here essentially are that the guideline increase--two thirds building operating cost index plus two--is too rich in terms of the rent increase the landlord gets. Generally speaking, we support the proposition that rent increases ought to be related to operating costs, and therefore the principle of BOCI and RCCI, the residential complex cost index, is one we accept, but the implementation of it is something we have some difficulty with.

To start out, it is very important to understand that a landlord's revenue usually exceeds his operating costs. Let me put it the other way. His operating costs usually are about 50 per cent to two thirds, 66 per cent, of his revenue. In very simple terms, if his operating costs are 50 per cent of his revenue, then for every dollar that his operating costs go up, he only needs 50 cents in rent increase to cover his increased operating costs.

Interjection: Percentagewise.

Mr. deKlerk: Percentagewise; that is right. That is the principle behind the two thirds BOCI. That is our first problem because the two thirds is on the high end of the scale. It would be experienced where a landlord has

very low financing costs. That is generally not the case. For landlords who have higher financing costs, and that will include virtually anyone who has purchased a building within the past four or five years, their operating costs will be a lower fraction of their total revenue and that will bring them around 50 per cent.

As we see it, the two thirds is on the high end of what would be a range for the costs-revenue ratio. This means that if the two thirds is adopted, most landlords will get richer. Their revenue will go up more quickly than their costs and that means their profits will increase from year to year. That would be exacerbated to the extent that anything is added to the two thirds. If we go to two thirds plus two, which is the proposal in the bill, that means a landlord--let us assume for the moment that a landlord has a two-thirds ratio. This means that every year his rents will increase by two per cent over and above his cost increases. A landlord who has revenue of, let us say, \$1 million--that is probably a 200-unit apartment building--will get \$20,000, two per cent, more profit than he had last year.

Our question is, what is the justification for that? All his other cost increases will be covered. The explanation we heard earlier--it was given by Mr. Griesdorf when he appeared before the committee as a witness from the Rent Review Advisory Committee--was that one per cent is given in respect of capital expenditures. The presumption will be that landlords will not come to rent review for capital expenditures because they get one per cent every year to cover those expenses. That is consistent with the bill because if you make an application dealing with capital expenditures, you lose that one per cent.

The other one per cent is pure gravy because it is an incentive. I think Mr. Griesdorf said it was a maintenance incentive to landlords to do more maintenance. That is a noble effort. The fact is there is nothing in the bill that says a landlord has to show his maintenance is improving from year to year.

14:30

Mr. Cordiano: If he does not do the maintenance, he will not get his guideline increase.

Mr. deKlerk: That is not true. If he does not do the maintenance, he does not have to come to rent review; he can just take whatever it amounts to.

Mr. Cordiano: We should clear that up. It is my understanding that the minister can issue a stay on the guideline increase.

Mr. deKlerk: That is only if the maintenance deteriorates to such an extent that he is no longer complying with the standards.

Mr. Cordiano: If he is keeping the one per cent as gravy, he is not going to keep up maintenance.

Mr. deKlerk: As an example of what has happened over the years, it used to be that you could rent an apartment and the landlord would paint it before you came in. Landlords do not do that any more. There are some cases that have gone before the commission where the landlord has said, "The only way I will rent this to you is if you paint it and I want \$150 or \$200 from you before you sign so that I can paint it." That is what has been happening on a much broader scale. Landlords are not doing the kind of work they used to do. They are cutting back on their maintenance costs, but they are not the

kinds of costs that will result in violations of property standards, simply because a tenant will paint it. They will put up wallpaper or they will get the tap fixed, because they are terrible things to live with. Generally, people are proud of their homes. They do not want to live in a pig sty.

Mr. Cordiano: There is a number of other areas in which tenants cannot afford or are unwilling to pay for the upkeep of the building.

Mr. deKlerk: I agree that they should not have to pay for it.

Mr. Cordiano: Exactly.

Mr. deKlerk: The problem is that unless you can say to the landlord, "You will paint this every five years," how will you make sure the tenant does not pay for it?

Mr. Cordiano: You use a very specific example, but if we look at the whole spectrum of items that have to be maintained in a building, there are grounds for a minister to issue a stay on the guideline increase if those repairs are not made and maintenance is not kept up.

Mr. McKessock: Including heating the hallways.

Mr. deKlerk: For example, will the minister put a work order on the building because the landlord has said to his janitor: "You used to vacuum the hallways twice a week. From now on, you will do it once every two weeks."

Mr. Cordiano: Something I suggested earlier is before the Rent Review Advisory Committee right now. The debate they are having is what constitutes the kind of thing that should be discussed at RRAC with respect to maintenance.

Mr. deKlerk: With respect to property standards today--and I will take the city of Toronto because I am most familiar with it--there is not a property standards inspector who will come out and visit your apartment building because the hallway has not been vacuumed. Those kinds of things are most demeaning to tenants, because they give them the message that the landlord does not care about their place. If the landlord does that work on an ongoing basis, those kinds of expenses keep up the standard of the building.

Mr. Cordiano: I agree with you entirely. I am saying that there are many other items that have to be maintained, plumbing, electrical and all kind of other things.

Mr. deKlerk: Sure, and the landlord will do them. I will give the landlord the benefit of the doubt for a moment. He will do them and they will take up a portion of his operating costs. What we and tenants are concerned about are the smaller things that the landlord can slough off to the tenants that, in the long run, make the housing less attractive and the tenants more dissatisfied. The one per cent the landlord will get is supposedly for those things, in part, but if the landlord does not do them, the tenants have no remedy, because the landlord will never find himself with an order to comply pursuant to the maintenance standards.

Mr. Cordiano: We will not argue about that.

The Acting Chairman: That will be good. Do not argue. No one is arguing. Carry on.

Mr. deKlerk: What we were talking about was the one per cent that landlords can get for the maintenance and the justification for that. I may be able to sum up by saying that essentially we are looking at a proposal in Bill 51 under which--I will assume the two-thirds BOCI is equal to the operating cost increases that the landlord will experience--in addition to that, the landlord is getting two per cent.

There is no justification for that and, in fact, it is not tied to any kind of undertaking by the landlord. There is no provision for the situation where, though a landlord gets that one per cent annually for the capital expenditures, he comes to the commission two or three years later and says he has to redo his roof. The evidence might be that, if he had done small roof repairs for the past three years, he would not have to do his big roof repair now. That is a problem we experience with rent review at present. There are little things that are not done that should be done on an annual basis. They pile up and pretty soon it is a big project.

Mr. McKessock: That is not the way a roof goes.

Mr. deKlerk: With respect, a lot of landlords patch their roofs.

Mr. McKessock: But it will eventually wear out.

The Acting Chairman: You will not have to replace the rafters if you repair it in the meantime.

Mr. McKessock: No, but little repairs will not stop the capital purchase of a roof.

The Acting Chairman: That is true. Do you have a specific recommendation on what the guideline should be? It does not say what it should be in your recommendations. We have been asking this question of some people.

Mr. Blazer: We do not have reliable research. We think the ministry does or could do some research about what the actual ratio is. What we are arguing here is that, in principle, the guideline increase should reflect increases in operating costs. We have been tossing around suggestions such as 60 per cent BOCI plus one, which we think is a little more realistic.

The Acting Chairman: I suggested yesterday that idea might have come from you but I was not sure.

Mr. Blazer: I am not clear where it came from myself.

The Acting Chairman: You were not here yesterday, Minister, but if you check Hansard, I said we had suggestions of two-thirds BOCI as a guideline, three-quarters BOCI as a guideline and 60 BOCI plus one as a guideline. I knew where the first two suggestions came from, but I was not sure about the third. I talk to a lot of folks.

Mr. Blazer: One problem is that you cannot talk about it in isolation from some of the other issues, for instance, the way BOCI is based on a three-year moving average. I think it was Mr. Smith, an economist--I am not sure if I have the right name--who pointed out some problems with that. That is related to the provision for extraordinary operating costs. It is a pretty tightly woven net.

There are all sorts of effects of the guideline formula that are not

immediately obvious. For example, if you even have a straight two-thirds BOCI formula, that guideline increase will already allow a purchaser of a building who is experiencing a financial loss to recover that loss and come to a break-even position within a short period of time. Yet the bill also provides for an additional amount to recover financial loss. It is hard to give a simple answer to that.

Hon. Mr. Curling: What sort of period are you talking about?

Mr. Blazer: In some cases, we are talking about three to five years. It depends on the ratio of the operating costs to the revenue at purchase.

Mr. deKlerk: It is a complex situation because every building has its own ratio, yet you want to establish a rate that is going to be applicable to everyone. If you say 50 per cent, some people will just break even with that, but a lot of other people will make a lot of money. If you say two thirds, a lot of people will break even at that rate and other people will benefit. Everyone is not going to be in exactly the same position because every one has his own ratio.

14:40

Mr. Cordiano: It has been suggested that there may be a substantial number of small landlords who will have difficulty even given Bill 51. That is a suggestion that is made. This will go a long way to alleviating some of the problems.

Mr. deKlerk: What kinds of difficulties?

Mr. Cordiano: Financial difficulties; the small landlords will go by the wayside because they will not be able to meet their financial needs.

Mr. Blazer: Our answer is we would like to see the evidence of that. If 50 per cent of landlords did not even take guideline increases in the past, that is a good indication that they did not even need that much and they must have been doing all right. It does not take any great sophistication to take a guideline increase. You fill out the rent increase notice form, give it to the tenant and there you have it. Why did half of them not even do that?

Mr. Cordiano: With respect to the amount over and above the two-thirds of the building operating cost index, the one per cent you alluded to earlier, you brought out the point about extraordinary items, operating items that may come up from time to time. Would that not include something like an accident, giving some provision for that in the buildup of cash-flow reserves?

Mr. deKlerk: The difficulty is when this extraordinary thing comes up, whether it is a 25 per cent hydro increase as we had a few years back or a big tax increase. I am not sure what other things the ministry people--

Mr. Cordiano: No, that would be covered by a three-year moving average.

Mr. deKlerk: No, it would not. There is a specific provision for extraordinary items. The way the residential complex cost index and the building operating cost index work is that every category of operating costs has its weight. If any one of those is way out of line, then you can go to the commission or the minister and say that you want an extraordinary operating cost increase.

Mr. Blazer: That is going to happen any time you have a sudden rise in the inflation rate because BOCI will not have caught up with that. It will be based on the preceding three years and there will be a high proportion of landlords whose costs, during a year of high inflation, will be more than the threshold above the component of BOCI and they will have grounds for an extraordinary operating cost increase.

Mr. Cordiano: The way the formula works, though, is that when you get above the threshold point of six per cent, rent increases will be lower than the rate of inflation.

Mr. Blazer: Right, but that has nothing to do with anything.

Mr. Cordiano: Why does it not have to do with reality? The reality will be the inflation rate of eight per cent--

Mr. Blazer: The relationship between the rent increase and inflation depends entirely on the ratio of operating costs to revenue. That is something that is always left out of the analysis and people go around saying, "Why can I raise my rent by only six per cent when inflation is 10 per cent?" There is a simple answer to that question: that is all you need because a certain proportion of your costs is not inflationary.

Mr. Cordiano: I would agree with you, but the point is this. Taken on the reverse side--I hear you, Mr. Chairman, but this is important.

The Acting Chairman: I did not say anything, actually. I do not know how you heard me. I was just staring at you.

Mr. Cordiano: On the other hand, the way the formula is set up now, where inflation exists at lower than the ROCI formula calls for, the increase is called for in the guidelines. There is some provision for this one per cent we are talking about and BOCI may be lower than inflation and that is reflected in the formula.

Mr. Blazer: That BOCI itself may be--

Mr. Cordiano: It may be if you compare it over some period of time. You are still taking two thirds of that.

Mr. deKlerk: What you have to do is say that BOCI is really inflation. It is the building industry's consumer price index.

Mr. Cordiano: Yes.

Mr. deKlerk: They have identified the costs that go into renting a building. That is really inflation. The price of bread in Vancouver has no relationship to what it costs to run a building. Let us say that inflation for running a building is six per cent. If your operating costs are half of your revenue and your revenue is \$200, then for every dollar or every \$1,000 or whatever, your operating costs go up. You know your operating costs will go from \$100 to \$106 because the building operating cost index is six per cent. If you increase your revenue by six per cent, then you are up to \$212. You have increased \$12 revenue for only \$6 in increased costs.

Mr. Blazer: It is all in the written brief. We understand it is hard to go through all these details and that is why we have given you copies.

Mr. Cordiano: What you are saying with regard to the guidelines is an important item. The point I am trying to get at is that when we have high periods of inflation, we are protecting tenants under the formula. At the cross-over point, which is six per cent, there will be some measure of protection. Would you agree with that?

Mr. Blazer: No. I do not agree with that. I wish Mr. Church were here today because he explained to the committee during the ministry's briefing that the theory behind this was that there is a cross-over point. At a certain point, the guideline will exceed inflation, and below that point it will be less than inflation. That is not the real cross-over because, as I said, there is no direct relationship between inflation and necessary revenue increases.

The real cross-over is whether the landlord's ratio is more or less than the two thirds, or whatever figure you have in that formula. That is where the real cross-over effect takes place. To the extent that a landlord's ratio is less than two thirds, he will gain by the formula. He will always be ahead of inflation, no matter what the inflation rate is. His guideline may be less than the rate of inflation, but it will still be more than sufficient to cover increases in operating costs. He will have a net gain in operating profit every year.

Mr. Cordiano: The point is that revenue has to be measured against inflation. It certainly has to be.

Mr. deKlerk: We have no problem with that.

Mr. Cordiano: That is a very relative and important comparison that you have to make.

The Acting Chairman: They have conceded that point, Mr. Cordiano; now get on to the next one.

Mr. Blazer: It has to be related to it, but it is not a one-to-one correspondence. That is what we are saying.

Mr. Cordiano: I agree with you there, but when you are taking increases into consideration, his revenue has to be related to inflation at some point.

Mr. deKlerk: That is why you recalculate BOCI every year--to figure out what inflation is. BOCI itself will always reflect inflation. Our point is, what is the additional two per cent for?

Mr. Cordiano: We have argued that part of it is for the maintenance of the building.

Mr. deKlerk: Which is already reflected in your costs, right?

Mr. Cordiano: No.

Mr. deKlerk: It is.

Mr. Cordiano: I do not think so.

The Acting Chairman: Thirty one per cent of BOCI relates to maintenance, and you get an inflationary increase every year.

Mr. Cordiano: However, I am not saying ongoing maintenance which is supposed to be done and has not been done. I am talking about maintenance that needs to be done that has not been done because of neglect. That is what this one per cent is all about. You may argue with me on that.

Mr. deKlerk: I will not argue with that, but you say it was not done because of neglect. What you are saying is the landlord neglected--

Mr. Cordiano: Or because of financial--

Mr. deKlerk: For whatever reason. The landlord did not do it in the past, although he got his increases. Is that right? He collected whatever rent he was legally entitled to do and that rent was sufficient to cover his maintenance costs, but he did not do them. Now we are going to give the landlord another rent increase to see whether he will do it again.

Mr. Cordiano: You are assuming that it was sufficient under the guidelines in years past.

Mr. deKlerk: If it was not, he could have got more. That is what everyone comes to rent review for.

Mr. Cordiano: You said yourself that 50 per cent did not. This is a tradeoff. That is what I am trying to say to you.

Mr. deKlerk: That is right. What are the tenants getting if it is a tradeoff? I understand there are times when it is legitimate to make tradeoffs. The landlords are getting an additional one per cent or two per cent. What are the tenants getting? What are we trading off?

14:50

Mr. Cordiano: We hope that the tradeoff, when we hear from the RRAC committee on this, will be what is stated in the bill. I understand from the spirit of the bill, which is better quality of upkeep of a building, that some of these buildings that are in a dilapidated condition will be improved.

Mr. deKlerk: But that is not different. If a building is in a dilapidated condition today, the landlord is breaking the law because the landlord now is required by law to maintain the building.

Mr. Cordiano: You brought up the point about minimum standards. There are certain areas of the province where there are very few standards in place or that are enforceable. The whole point is that we should have a province-wide minimum standard.

Hon. Mr. Curling: Mr. deKlerk, may I comment? I heard what Mr. Blazer said and I fully agree that there are different motivations or reasons why certain buildings are dilapidated or why people have left. One can look at the New York situation or at the situation in France. One can find different reasons for different economic situations as to why buildings are left like that. Incentives are in place so that landlords will see that it is much more reasonable to carry out capital expenditures, so that they can continue their investment to maximize it as much as possible to make a profit. If they see they are taking a loss and in some respects are better off to abandon the building, they may just do so.

The discussion I am hearing is almost the same discussion that went on in RRAC where some used words such as "tradeoff" and what have you to say, "You get a rent increase from the landlord, but what do you get for it?" That is the point you reach for. They said, "What we need is what we pay for, that the place should be not only affordable but also decent."

Then the maintenance standard board comes in. "If we go into this formula, what is there for us?" They say, "The maintenance standard board will be established and procedures will be followed for enforcement." I heard you as you went along: "Let us have some meat to this. We hope it comes forward. Maintenance standards should have something that we can enforce and the RCCI formula should tell us that we are getting our money's worth and it is being maintained."

The discussion will go back and forth as to whether it is 60 per cent or 40 per cent of the operating costs or whether two per cent is too rich or one per cent is too rich. It was worked out in RRAC to say: "It is two thirds of the building operating cost index plus two per cent. That is what it will be settled for." I welcome your presentation, but it is almost the same dialogue and discussion that went on in RRAC.

Mr. deKlerk: The next section we should be able to deal with quite briefly, the operating cost allowance.

The Acting Chairman: Before you get on to that, Mr. deKlerk, I have been fiddling here and I came up with the number of 3.9 per cent for your proposal; 60 BOCI plus one works out to 3.9 per cent, which is pretty close to something I remember being promised in the past.

Mr. Blazer: What the heck. Round it off.

The Acting Chairman: Round it off to 3.8; okay, fair enough. I already rounded it by the rules, by one tenth of one per cent. It was 3.88 per cent.

Mr. deKlerk: I said to Mr. Gordon that there is a certain advantage in simplicity. People will find it much more palatable if they know that the rent is going up by four per cent, three per cent or five per cent rather than--

Interjection.

Mr. deKlerk: No, rather than 3.8 or 3.65 or that sort of thing; I like four per cent.

Mr. Cordiano: The minister will announce that as a statutory guideline and everyone will be made aware of it. I do not think there is--

Mr. deKlerk: I am saying four per cent is much easier than 3.9 per cent or 4.1 per cent.

Mr. Cordiano: I will not argue with that.

Mr. deKlerk: I guess the only thing to say quickly about the matter of the operating cost allowance is that a fundamental change is happening because landlords are no longer required to prove their operating costs. To a great extent, it is the operating cost aspect of the application that takes up so much time in rent review hearings. A lot of it is very tedious and often

not all that productive in terms of changing the outcome. To have a stipulated amount as the operating cost allowance will considerably expedite the process and probably not result in a lot of changes one way or another.

What we are concerned about is when the landlord does not have to prove his operating costs. There are circumstances where we think he should, and they are primarily when he is claiming a financial loss. It is our concern that a landlord, whenever he is claiming a financial loss, should have to prove his actual costs. Otherwise, you are creating a notional financial loss, and we do not think that is an appropriate thing to do.

Mr. Blazer: The other point, which I have already touched on, is the three-year moving average. Mr. Cordiano mentioned that there is a cushioning effect in the formulae. I agree, but I think that is where the cushioning effect comes from, and that is a good thing. The problem is when you then leave it open to the landlord to apply when he experiences an extraordinary operating cost. As I said, that becomes much more likely to happen when you have a sudden upturn in inflation. You are going to have mass numbers of landlords experiencing this. Then it just negates the equities of having people take their luck with averages, because you have a system where the landlord cannot lose and basically the tenant cannot win.

Our suggestion is that if you keep the three-year moving average, the provision for extraordinary operating costs should be removed. We detail in the brief exactly why that provision undermines the averaging concept.

The Acting Chairman: The theory behind the operating cost allowance in Bill 51 is that it is a point less than the guideline and therefore there is a penalty for going into the rent review system. Would you want to maintain that penalty in your system? You suggest 50 per cent, which actually is a greater penalty than the bill suggests.

Mr. Blazer: I am not sure I understand the question completely. What is the 50 per cent you are talking about?

The Acting Chairman: That is what you recommend on page 40, that the operating cost allowance might well be 50 per cent of the building operating cost index. Right now it is two thirds of BOCI plus one per cent.

Mr. deKlerk: You have to see that in conjunction with our comments on the guideline itself. We think 66 per cent, or two thirds, is too rich.

The Acting Chairman: Yes, I know you do.

Mr. deKlerk: That is where the 50 per cent comes from. We think 50 per cent is a more realistic average figure for operating costs to revenue.

The Acting Chairman: Yes.

Mr. Blazer: I got confused for a second there. The 50 per cent is to translate it into a dollar amount. What we are really talking about there is BOCI. We are saying 50 per cent, because that is going to be the ratio of operating costs to revenue. To translate it into a dollar amount, you need a percentage to multiply it by.

When we are talking in terms of percentages--and that is what the bill does, because it talks about a percentage allowance for operating costs--then what our recommendation translates to in terms of percentages is the BOCI

percentage. That is what BOCI is--a percentage figure. Therefore, we are saying BOCI plus nothing should be the allowance, because that is what BOCI is there to represent.

The Acting Chairman: The problem with that, Mr. Blazer, is that BOCI at the moment is 4.8 per cent, and the guideline you have suggested is lower than that, so you are going to encourage everybody to go to rent review.

Mr. Blazer: But that does not mean a 4.8 per cent rent increase. It means an allowance for a 4.8 per cent increase in the landlord's operating costs. We are saying that this translates to 50 per cent of BOCI applied to revenue.

15:00

Mr. deKlerk: If you look at the situation right now and say inflation is approximately four per cent, if you look at rent review applications, the standard application before the commission right now, the landlord has applied for financing cost increases and capital expenditures and has to prove his operating costs. If you take out the capital expenditures and the financing for a moment, you will find that landlords are justifying between two per cent and 3.5 per cent rent increases on the basis of operating costs. When the capital expenditures, which may be two per cent, and five per cent for financing are added, you are getting a 10 per cent rent increase, which is fairly standard for a building that has just been sold. That does not represent his cost increases; that represents his rent increase. His costs are not going up by four per cent.

Mr. Cordiano: Mr. Chairman, did you not say that the building operating cost index is running at about something in the neighbourhood of 4.8 per cent?

The Acting Chairman: As far as I can tell, that is the number people are thinking about.

Mr. deKlerk: That is right. If you had 4.8 per cent and a 50 per cent ratio, you would get--

The Acting Chairman: Half of that.

Mr. deKlerk: --a 2.4 per cent rent increase, if you were doing it on a strict cost past-through basis.

The Acting Chairman: The point I am trying to make is that if the guideline you propose works out to 3.9 per cent and the operating cost allowance treatment you propose works out to 2.4 per cent, then the spread there is half a per cent bigger than is suggested in Bill 51. It does work out that way.

Mr. deKlerk: Right, but I do not think you are understanding it correctly, because what we are saying is BOCI ought to be 50 per cent, not two thirds.

The Acting Chairman: I took 50 per cent of it and got 2.4 per cent. I do not think we need to argue about this. You have maintained the general thrust of the bill. I think we need to have it fleshed out a little more so that we will find out precisely what happens in real life, because we have had some explanation of what happens under Bill 51. You have a counter-proposal.

We need to see how that fits. Perhaps you can give us something more on that later on, such as next week.

Mr. Blazer: I wonder whether you can indicate when our time is up, because I am concerned with our pacing here.

The Acting Chairman: Your time is up in half an hour.

Mr. Blazer: We are only halfway through.

The Acting Chairman: You are really going to have to go now.

Mr. Blazer: We are gratified we have stimulated so much discussion, but it is too bad if we cannot finish.

Hon. Mr. Curling: Our chairman is of course playing two roles today.

Mr. deKlerk: There is one other part of the operating cost allowance I would like to stress for a moment, because it is also a significant one in terms of the way rent review now works. The distinction between capital expenditures and operating costs is an important one, but we also run into lots of problems where landlords defer operating costs over a number of years and then, a couple of years down the road, lump them all together, and suddenly you have a capital expenditure. Particularly where landlords do not have to prove their operating costs, that becomes an ever larger problem.

I thought we could do the previous item briefly, but there are a few things I would like to mention here. With respect to capital expenditures, we think it is important that there be more than just dialogue with landlords with respect to the capital expenditures that are being undertaken. It is our recommendation that where capital expenditures relate to required maintenance or relate to some kind of preventive maintenance program--and that could easily tie into the maintenance board--it could be simply done and no problem with the pass-through of those kinds of items.

We are very concerned, though, where a landlord is proposing capital expenditures which are unnecessary, which do not give the tenant any additional benefits and which are really schemes to try to increase the rent. There are all kinds of examples. A landlord installs a very sophisticated security system but does not bother to put locks on the front doors; or a landlord takes a perfectly good lobby, totally renovates it at a cost of about \$50,000 and gets a rent increase for it. It adds nothing and, in the meantime, he is not doing the day-to-day maintenance the tenants want. In those kinds of situations, we think the tenants should be able to say, "Listen, if you want to do that, fine; but we are not going to pay any rent increase for it." It seems it is the landlord who has decided to do that kind of work; and if he wants to do it, we cannot stop him, but we can say he is not going to increase the rent for that kind of thing. That is the first point we make with respect to capital expenditures.

The second is that, generally speaking, the idea of being more stringent with respect to the application of amortization periods is a good idea because a lot of time is taken up in rent review hearings in arguing over whether a fridge is eight years old or 10 years old. The tenants inevitably say: "Listen, I have had mine for 20. What is wrong with 20 years?" Usually, they are correct, and the landlord will not replace the next fridges in 10 years. He will keep them there as long as he can; and the expenditures usually outlive the life the commission gives them.

Assuming the periods are appropriate, we are happy with a stronger or a less discretionary approach to those kinds of things. It is very important to look at the annual cost that is passed through to the tenants in terms of rent because a landlord now recovers his costs over a fixed period and he increases that amount annually through his guideline rent increases. A landlord could have an expense which justified a \$100 a year rent increase and that was passed through to the tenants with the expectation that he would recover that \$100 over five years, 10 years or whatever. If it is 10 years, then the capital expenditure was \$100, times the number of units, times 10 years, so the landlord then has 10 years to recover. In fact, the \$100 in the second year becomes \$104 if the guidelines are four per cent, and it becomes \$104 plus four per cent the following year. It is increasing and as a result the landlord recovers his cost in about two thirds to three quarters of the time the commission would have allowed.

That is a little rich; and there are very simple mathematical formulas that can be developed to build in those increases and come up with the appropriate write-off period. We think that should be done.

The other item that relates to capital expenditures is the matter of costs no longer borne. In that respect, we do not quite understand what is magic about August 1, 1985 that capital expenditures undertaken before that time should not be subject to costs no longer borne. August 1985 is just a little over a year ago, and most of the capital expenditures that were undertaken were, of course, undertaken before. It means, effectively, this does not really offer tenants very much. It means it will be another five to 10 years before there is any effect of costs no longer borne. The problem is, a lot of work has been done, and it should reflect the work that has been done in the past 10 years. That is one thing.

The other thing is, we do not quite understand where the 80 per cent comes from. The costs no longer borne only affects 80 per cent of the previous cost, and it should be 100 per cent.

The Acting Chairman: On that point, Mr. deKlerk, stepping out of the chair for a moment, I asked one of the landlord members of the Rent Review Advisory Committee where the 80 per cent came from, and he said to me, "Well, why not 120 per cent?" I said, "I will take it." The point of the story is that it did not come from anywhere; it was a deal.

Mr. Blazer: The 120 per cent is probably more realistic in terms of what the landlord has actually recovered.

15:10

Mr. deKlerk: The other difficulty is that it relates only to the particular item. If a landlord does not come back in 10 years with the roof he got 10 years ago, it will be in there for ever. A lot of people do not seem to understand that if you have a capital expenditure of \$10,000 over 10 years, you get \$1,000 every year. After the 10th year, the \$1,000 does not come out of the rent; it stays there. It is a bit notional to say we are spreading the cost over 10 years; it is just a way of coming up with an annual figure. You are not spreading the cost over 10 years; you are giving the landlord a \$1,000 increase this year, and it will go on for ever.

Mr. Cordiano: The 20 per cent will.

Mr. deKlerk: The 20 per cent applies, for example, if you have a

specific elevator that has to be replaced. When you replace that elevator, you take 80 per cent of the former cost--

The Acting Chairman: Out.

Mr. deKlerk: Right.

Mr. Cordiano: That is what I am saying.

Mr. deKlerk: What we are saying is that the circumstances in which costs no longer borne would apply are too limited. It will be once in a solar eclipse.

Mr. Cordiano: When it is a capital expenditure on some item, such as a new roof.

Mr. deKlerk: Right, but how often do you get a new roof?

Mr. Cordiano: It is spread over 10 years and, therefore, after the 10-year period, you are no longer able to take out that cost entirely--

The Acting Chairman: That is not what the bill says.

Mr. Cordiano: --only a portion of it.

The Acting Chairman: You take it out only if you come back to replace the roof again. You may never replace the roof again, but the tenants may pay for it for 50 years. It has been paid for five or six times by then. That is the problem they are talking about.

Mr. Cordiano: The 80 per cent--

The Acting Chairman: The 80 per cent comes out only if you replace the specific item.

Mr. Cordiano: A second time, yes.

Mr. Blazer: And if you apply for it.

Mr. deKlerk: I think it is based on that expenditure.

Mr. Cordiano: And if you apply for that capital expenditure.

Mr. deKlerk: Right.

Mr. Blazer: It was even one of the landlord's submissions earlier in the hearings that pointed out the difficulty with that section in terms of determining what is the same capital item. If the landlord replaces the south side of the roof and comes back 10 years later and replaces the other side--

The Acting Chairman: I think it was Goldlist who was talking about that.

Mr. Blazer: It is a well-taken point.

Mr. deKlerk: How often do you replace all the appliances in the building? Not very often. It is usually a couple here, a couple there, and so forth. When is a particular appliance being replaced again?

The Acting Chairman: You have 15 minutes. Go.

Mr. deKlerk: I have a very simple comment on financing costs in relation to cost no longer borne. We note that there has been an amendment with respect to this. It has been reduced from a two per cent variance to a one per cent variance. However, the real problem is that the people who are hurting as a result of financing cost increases are those who had very big increases in 1981 and 1982, when interest rates were 15 to 20 per cent. There are a number of those and the commission staff can identify every one. Those increases will not be affected by the costs-no-longer-borne provision, simply because it has to be an increase that was passed on by the commission after August 1985. With respect, this provision is a sop and nothing more.

Mr. Blazer: I will jump in for one minute. At the back of our brief, we reprinted the six-year summary of the commission reports. You will note that the average increase from 1979-80 to 1984-85 has generally hovered around the 10 or 11 per cent mark, except for the hump in the curve between 1981 and 1983, when it topped 14 per cent. That is obviously the effect of those interest rates. It was not unusual to see staggering rent increases. Twenty per cent and 30 per cent were not unusual and there were examples of 50, 60, 70, 80 and 90 per cent rent increases granted by the commission on the basis of increased financing costs.

It seems to me that the August 1 date that seems magically to appear all over this bill has to do with some kind of phobia about retroactivity in legislation. That is just my guess; I may be totally out in left field on this one. It seems to me it is based on the fact that these policies were announced somewhere around that time.

In connection with that, I want to submit that there is a big difference between retroactivity and retrospectivity. Nobody is talking about rolling back the rent increases that landlords obtained when they passed through these 20 per cent mortgages. All we are talking about is that, now that they no longer have those 20 per cent mortgages, their rents are up at a level that is no longer justifiable on the basis of the previous system or the proposed system, for that matter. That should be set off against any future rent increases. In some cases it might mean no rent increases for a couple of years until their costs catch up to the point where there is a realistic relationship there.

These landlords did not take out 10-year or 20-year mortgages at 20 per cent, they took out one-year and two-year mortgages. When they renewed the mortgages at realistic interest rates, they did not come back to rent review. They walked away with absolutely astronomical increases in profits. When you get right down to it, the tenants of those buildings--and you can look at the Residential Tenancy Commission's report to determine how many units were affected; there are 10s of thousands of them--are the only people left who are still paying 20 per cent mortgages. That is what it comes down to.

We think that it is grossly unfair and that there is absolutely no justification for limiting removal of costs no longer borne, whether they are financing costs or capital expenditures, to August 1, 1985. With respect to financing costs, the problem is much more acute because of those interest rate prices for which landlords did not fail to cover themselves by going to rent review.

Mr. deKlerk: The next item is financial loss. If you look at the recommendation on page 59 of our brief, it is quite short. It simply says, "Financial loss pass-through should be eliminated."

That sounds very drastic. With respect, it is not very drastic at all. We think there are some good policy reasons for doing it.

The first is that, to the extent that a landlord can get a rent increase based on his financial loss, where the financial loss results from the purchase of a building, you are encouraging the sale of apartment buildings. In our respectful submission, that encouragement runs contrary to the principle of allocating limited resources to the creation of new housing.

When a landlord buys an existing apartment building, he is not creating in it a single new unit. What he is doing is upping the price of existing housing which may be affordable and which will be less affordable because of his conduct. We do not think that a bill which, as the minister stated when he made his introductory comments to this committee, is concerned about affordability and the supply of housing should encourage a conduct which has negative impact on both those objectives.

The concern is that if we do not have this allowance, these poor landlords are going to lose money for a long time. We think that is not true. First, we think it would be good if the price of housing were somewhat more depressed than it is right now. It might even be good if they were chronically depressed. The point really is that, apart from all the other provisions of rent review, if a landlord takes two thirds of the building operating cost index plus two under the proposed system, he will be in a break-even position, certainly within five years. We do not think it is necessary to have both the financial loss provision and a two-thirds-BOCI-plus-two provision because it simply gives the landlord the same thing twice.

15:20

It is interesting to note, if you look at the current system of rent review where there is a maximum five per cent rent increase in financing costs resulting from sale, that in many cases the landlord might get five per cent the first year, although sometimes he does not get even five per cent because he cannot justify it. The second year he will get an allowance. In the third year it will be substantially less and, usually, you do not see the landlord in the fourth year. That is because, through a system of a five per cent increase, or less, for financial loss, and his other increases, the landlord finds himself in a break-even position within five years, or less. We think that we should develop a rent review system which says, "All right, you are going to break even over a number of years, let us say five years, and we are not going to encourage the sale of housing."

The other part of this whole thing is that the so-called operating losses that a landlord experiences in the first few years have to be put into proper context. There are very few people who own and operate apartment buildings for the purpose of gaining an operating profit. On a percentage basis, there are more who own and operate them for the purposes of gaining losses that they can write off against other income.

You cannot look at the provisions of this bill, especially as they relate to financial loss, without having very serious regard to the income tax implications of apartment management and operation. This bill does not do that.

Second, you cannot talk about financial loss without, at the same time, talking about capital gains. That is where most people make most of their money in terms of operating apartment buildings. They realize their profits at the end. That is why most people do not wait very long and why you find people

are not in this business for much more than half a dozen years. They will turn over, get rid of it and start again.

In summary, the financial loss provisions go against the provisions of the bill. They do not really reflect the reality of operating apartment buildings. They encourage a conduct which we do not think should be encouraged.

The Acting Chairman: We have five minutes left and 20 pages to go.

Ms. Caplan: On that, the comment I have to you is, from what I am hearing, you do not consider a building is an investment, and there is a return on the investment that is a fair return based on that investment.

Mr. deKlerk: You have to look at the whole picture. That is what we are asking you to do.

Ms. Caplan: The question I would put to you, and I would use as an example an investor who has \$1 million to invest, is why would he invest that in an apartment building which he knows is going to take perhaps five or six years before he receives any return on that? Why be locked into losses under your proposal, you do not recognize any loss, when he could take that money and put it into a treasury bill, a commercial building, or retail unit where he can get a return on it?

Mr. Blazer: I will tell you why.

Ms. Caplan: What I am hearing you say is that there will only be government Ontario Housing Corp. projects, only government will build.

Mr. Blazer: No. In our next section we talk about rate of return. The rate of return in apartment ownership, if you are willing to hold on to it for a long time, can be very substantial. Compared to other low-risk investments it is much higher.

Ms. Caplan: I just heard you say that your feeling is they hold on to it for only half a dozen years.

Mr. deKlerk: That is right, for other reasons.

Ms. Caplan: I do not think any of the facts we have heard bear that out at all.

Mr. deKlerk: From our experience at rent review, the incidence of selling apartment buildings is quite high and the tenure of landlords is much shorter, generally speaking, than that of tenants. In other words, if you go to an average apartment building, you will find the tenants have been there longer than most landlords. The fact is that the landlords find, for income tax purposes, that operating losses are useful in some cases. Second, they find that the capital gains are more important to them than any operating profit they might be realizing.

On top of all of that, for those people who do stay, there is quite good money to be made in apartment buildings on a long-term basis. If you are prepared to stay for a significant amount of time, you are going to generate an operating profit. It may not be 12 per cent, such as you get from Treasury bills, and it is certainly not going to compare with mining nickel in South Africa or something like that, but it will be a respectable return.

Then you add to that the fact that there is going to be a capital gain on the end and the fact that over the life of your being there you have had the tenants pay down your mortgage. As a result, if your mortgage is paid out at the end, if you buy your building for \$2 million, you have a \$1.5-million mortgage on it and you see it right through to the end, then not only is your building going to be worth about \$10 million but you will also get back the \$1.5 million you originally mortgaged. You are not going to give that to the tenants; you will get that back, plus your operating profits all along.

Ms. Caplan: How do you stop yourself from going bankrupt from the time you make your initial investment if there is no recognition of financial loss until some time in the future? Maybe there will be a capital gain, but maybe there will not be. Who knows what is going to happen? With economic times as they are, I suggest to you that this is the risk.

Mr. deKlerk: Only once in the past 100 years has real estate dropped in value. I do not think anyone is expecting that to happen again. The fact is that rent review as it has worked for the past 10 years has never said that the losses you are talking about having can be recovered. It is all considered.

Ms. Caplan: I just asked how you would stop somebody from going bankrupt.

Mr. deKlerk: It has not been a problem; that is what I am telling you.

Ms. Caplan: We have heard numerous people come before this committee and say they had exactly that problem, that they were on the verge of bankruptcy. We had a gentleman here last night who said: "If my boiler breaks, I am bankrupt. I cannot even get a loan, because it is considered such a poor investment."

Mr. deKlerk: It may be that there are problems for some investors getting loans, and maybe we have to talk to the banks about that. What is the problem? A landlord can go to rent review and get his rent increase over the life of the new boiler. Why will the bank not give him a loan?

Ms. Caplan: Because it is a bad investment.

Mr. deKlerk: The bank is saying it is a bad investment.

Ms. Caplan: Because he is in a loss position in this building.

Mr. deKlerk: He is going to get his rent back, though. The landlord will be able to make the payments on the loan he has to get from the bank because he is going to have a rent increase to cover it.

There is a problem--

Ms. Caplan: Let me get in one last question. Is it your position that an owner of a building should not view this as an investment and should not be entitled to any return on his investment until such time as the building is sold?

Mr. Blazer: No, we never said that.

Ms. Caplan: All right.

The Acting Chairman: Forge ahead. You are into chronically depressed rents. We have heard a great deal about this.

Mr. deKlerk: The difficulty we have with chronically depressed is that we still have not seen the study that has been promised for a long time.

The Acting Chairman: I will give it to you. We just got it ourselves this week. You will find it fascinating reading, but totally incomprehensible.

Ms. Caplan: Is "totally incomprehensible" an editorial comment by the chairman? I did not find it totally incomprehensible at all.

The Acting Chairman: It is totally incomprehensible; take my word for it. I am saving time here. I am being the critic and the chairman at the same time. That is not the same as talking out of both sides of your mouth, however.

15:30

Mr. deKlerk: Perhaps we will comment on this later.

The difficulty with chronically depressed is that it is necessary to look at each case individually to determine what is chronically depressed. We get into the relatively awful situation of saying a landlord is in the category of the chronically depressed, but what about the tenants? I simply do not buy the proposal that we can give the tenants money, so they can pay the landlord, so he will not be chronically depressed. That is just a vicious circle. The problems, again, come from asking, "What makes this landlord chronically depressed?" Just because your rents are low does not make you chronically depressed. I think that is very important to realize.

The other thing to realize is that once you start comparing the chronically depressed rents to the market rents, you get into a very difficult situation because what are the market rents around you? What are the comparative buildings? We do not think that is an exercise worth pursuing because there will always be buildings that are different. It is compounded by the issue of illegal rents.

The Acting Chairman: Just to save you time, the study says that one to two per cent of the rental stock would fit into the chronically depressed category, and the ministry has estimated that to be about 18,000 units.

Mr. Blazer: Does that include the provision about the last date of sale as well?

The Acting Chairman: Yes. Under all the thresholds, its estimates are about 18,000 units. The estimates are that about 28 per cent of the people in those units currently have an affordability problem. Those are the basic facts that could be extrapolated from the study.

Mr. deKlerk: Therefore, to follow up on a suggestion I made to Mr. Church some time ago, if you pay a rent subsidy to about 28 per cent of the people so that they can afford to pay the rent after it is no longer chronically depressed, you have probably put in enough money to turn that housing into social housing.

We suggest that is a much more appropriate way to deal with low rents. We call them "chronically affordable rents." One of the objectives of the

overall housing policy is to keep rents affordable. If you take the lowest ones and jack them up, you are losing your most valuable resource.

Hon. Mr. Curling: But that is not the proposal.

Mr. deKlerk: In terms of increasing, by giving the landlord higher rents, you are making the units that are affordable less affordable.

Ms. Caplan: Are you suggesting that even though more than 70 per cent of the people in those buildings have no affordability problem, the government, none the less, buy those so everyone will live in an Ontario housing project, and that will solve the problem? You have 70 per cent with no affordability problem, and yet that is how you would solve the problem for 28 per cent?

Mr. deKlerk: Perhaps we could put it somewhat differently. I premise my comments by saying I have a bit more confidence in your government right now; I think you could run housing more effectively than Ontario Housing Corp. has been doing it for the past 20 years. OHC is not a great flag to fly. We believe social housing is important and that we could do much better than has been done in the past.

Ms. Caplan: But your thrust would be to have people living in government-run housing projects.

Mr. deKlerk: It does not have to be government-run housing. In many respects, the minister is supporting what is called social housing. That includes housing run by municipalities, it may include housing run by the province and it includes housing run by all sorts of nonprofit organizations and co-operative housing corporations. There is a gamut of possibilities. Essentially, we are saying housing is a public resource, a social resource. Let us run it on that basis rather than some sort of investment opportunity where there is never enough money to satisfy the investor.

The Acting Chairman: Is your recommendation to delete section 88?

Mr. deKlerk: I think that is what it says at the end, does it not?

The Acting Chairman: Mr. Church hinted that there might be rent subsidies for people with an affordability problem. However, that was the assistant deputy minister speaking and I have not heard that from the minister.

Hon. Mr. Curling: That is right.

Mr. deKlerk: What we would suggest, with respect, is that you ought to look at the money it is going to take to do a rent supplement and see if that really is a cost-effective way of dealing with the problem.

With respect to post-1976 buildings and the rate of return, the short recommendations here are that there is really no justification for treating the post-1976 buildings any different from the pre-1976 buildings. They are run on the same basis and it simply makes for a very convoluted piece of legislation and administrative program as well. We think it would be much simpler to treat them all the same. There is a system that has worked in terms of dealing with people who have financial loss. There is a system that has worked for pre-1976 buildings and we think post-1976 buildings will fit into that as well.

There is an overriding problem, quite apart from all the extra considerations that go into it, but when you look at the post-1976 buildings you develop the difference between the actual rent and the maximum rent chargeable. As soon as you have that problem, then you are looking at tenants who could be facing rent increases up to the maximum rent charged, and that is a way of evicting certain tenants.

In other words, an individual tenant has no protection against the landlord who decides quite arbitrarily that he is going to charge that tenant the maximum rent. That is a real problem, because it is going to be a very strong disincentive for tenants to enforce their rights and it is going to be a very strong tool for landlords who want to discriminate against certain kinds of tenants.

For those reasons, we think that it is better just to have one system of rent review, not two. Certainly, if you are going to stick with the two, I think something has to be done to make sure that landlords cannot go from actual to maximum rent without some kind of justification for doing so. Either it has got to be the whole building at once or nobody, but certainly it is not fair to allow a landlord to pick out one unit here or there and discriminate against people in that way.

It is going to be the people who can least afford it, the single parent, those on limited incomes, or with families, or those who are trying to enforce their rights, who are going to be the object of that kind of discrimination. So we would strongly encourage that something be done about that problem.

The last item we have anything to say about here is the matter of equalization. The difficulty with equalization is that it is not really equalization in the sense that most people would understand. Most people would understand it as being some sort of averaging, where people are paying the same amount for the same goods and services, but it is not. Really, what equalization amounts to is, "Let everyone pay what is at the top."

There are very few--I suspect there would be no--people who find their rent goes down as a result of equalization. That is what makes equalization such a difficult thing to deal with, because no one wants to pay more rent, and if you are at the top, you would like to see other people pay more. It is not going to be an averaging, and I think that is a real problem.

We think there should be a cap on the equalization, in any case, which should be two per cent.

The Acting Chairman: Annually?

Mr. deKlerk: Annually.

15:40

The Acting Chairman: We have had a lot of discussion about the equalization situation.

Ms. Caplan: There is another problem as well, that is, tenant versus tenant. We had some tenants here the other evening, and a woman said, "I am in a two-bedroom apartment and I am paying the same as the penthouse and that is not fair." Tenants know what other tenants pay. She is saying, "I understand that the equalization will not mean more money for landlords, but it will be fairer for tenants if I pay the same as someone in a two-bedroom but not the same as someone in the penthouse."

The provision for equalization does not give more to the landlord; it is just fairer for tenants; so we do not have the tenant-versus-tenant situation we have now.

Mr. deKlerk: We understand that landlords are indifferent with respect to equalization in terms of their financial position.

Ms. Caplan: There is strong tenant advocacy for that because they are saying it is not fair. There are people with affordability problems paying at the upper end and they will receive a rent being lowered. Why should it not be the same for the people at the bottom?

Mr. deKlerk: I am not sure how that happens.

Ms. Caplan: Perhaps the minister or the ministry people would like to explain equalization.

Hon. Mr. Curling: There are those who are paying a high amount of money, as Ms. Caplan explained. I will use a hypothetical figure. If it is \$500 for a two-bedroom on the second floor and a person is paying \$800 for a two-bedroom on the eighth floor, even though the equalization increase will come about on the \$500--your talk about an affordability problem is not fair--there are provisions made that it cannot jump to \$800 if it is going to be equalized by \$300. I think it is a five per cent increase, is it not?

Mr. Laverty: Five per cent is the maximum amount of rent increase related to equalization. The scheme of equalization will be implemented in such a way that the total revenue collected by the landlord is not affected by the equalization process. There is a provision in an amendment which you may not have seen that allows for the lowering of rents at the high end.

Mr. deKlerk: Which section is that?

Mr. Laverty: That is subsection 79(3), which has been added to the legislation.

Mr. deKlerk: That will be a big improvement. There is no doubt that ultimately, ideally, no one can argue with equalization because it is common sense that people who are getting the same thing ought to be paying the same amount. The controversy comes up because people do not like their rent to go up any more than it has to. In the same situation, I think every one of us would be fighting to keep our rents down.

There is an added complication in that many people's rents are down because they fought it. If you go back to the years between 1975 and 1979 when a tenant on his own application could reduce what was then an eight or six per cent increase to anything below that, the landlord had to justify the rent increase. Many of those tenants got their rent rolled back, in some cases to zero. Some did that more than once. That is how they got their lower rent.

Ms. Caplan: It is important to note as well that equalization will be based upon the legal rent. There will be a tremendous assistance to tenants who have been paying illegal rent or did not have the benefit of the sophistication to apply to rent review to do that. It will lower a great many rents of people who have been caught in exactly that situation. Their rents will come down and those of people at the lower end, where it is tenant versus tenant saying it is not fair. Certainly, in the name of fairness, people

paying more unfairly should not be subsidizing the people paying less unfairly. That is just common sense.

Mr. Blazer: We are not arguing against equalization.

Ms. Caplan: I thought you were.

Mr. Blazer: We are saying it should be done more gently and it should be done with regard to some legitimate variations and with regard to the reasons for the variations.

Mr. deKlerk: Our recommendations simply say we think it should be a rationalization of rents, not an equalization up.

Ms. Caplan: An averaging as opposed to--

Mr. deKlerk: That has just been amended, so that takes care of that.

The Acting Chairman: In the minister's hypothetical example, the person with the low rent gets a 30 per cent rent increase. That might amount to an economic eviction.

Mr. deKlerk: That is your interpretation.

The Acting Chairman: No, because what happens is that \$1,300 a month is realized from those two units. You split the difference, and they become \$650. When you roll \$500 over the course of six years or five years, you get a 30 per cent rent increase over and above whatever the guideline was. That might economically evict you.

Mr. Blazer: Over a number of years.

Hon. Mr. Curling: Mr. Blazer has it much better, Mr. Chairman, if you heard what he said.

The Acting Chairman: Mr. Blazer is much smarter than I am.

Hon. Mr. Curling: I thought so.

The Acting Chairman: For one thing, he is not a politician, which proves he is smarter than I am.

Mr. deKlerk: What we are concerned about here--and this is why we suggest the cap ought to be two per cent as opposed to five per cent--is that there are in the bill right now a whole lot of factors that can result in a rent increase. You could get a guideline and five per cent right now, which, if the guideline is around five per cent, gives a 10 per cent rent increase right there. If you put it in a post-1976 building, you are talking about the guideline, you are talking about three times the guideline and then on top of all of that you are talking equalization; you could easily be talking about rent increases in excess of 20 per cent.

Mr. Blazer: Now that this amendment has been proposed, now that some rents can come down while other ones are going up, this means you are doubling the rate at which you move towards equalization, in effect, because the two sides are now coming towards each other instead of one of them staying still while the other one moves. That is all the more reason a two per cent cap is more realistic. It is equivalent to what a four per cent cap would have been

prior to this proposed amendment in terms of how long it will take to equalize.

There is always a struggle. You have to strike a balance. The tenants who are paying the higher rents want to equalize quickly; the tenants who are paying the lower rents do not want to equalize, or want it to take longer. There has to be a balance struck. We are happy to see this proposed amendment.

Ms. Caplan: A delicate balance.

Mr. Blazer: A delicate balance. We are happy about this amendment. Combine this proposed amendment with a two per cent cap and we think that is a reasonable balance. I understand there is a submission later today from someone who is going to concentrate a lot on this issue of equalization and who is probably much more expert on it than we are. Maybe we could move on.

Mr. deKlerk: The last item is that of procedure. We are not going to spend very much time on this. We are talking about tenants, but essentially what we are concerned about is that any party to an application have the right to a full and fair hearing. Under the present proposal, that will take place only if there is an appeal. In order to have a fair hearing, that will put pressure on people to appeal, and to a great extent it makes all that happens before somewhat redundant.

We would like to see a system that is streamlined, because we do not like the delays that exist right now under the Residential Tenancies Act. It simply does take too long. We think that if there is one good hearing with a good board--and we would certainly like to see the kind of board that has tenant representatives on it, because since the original rent review board, which was disbanded in 1979, there have not been people who have been sensitive to tenants. The kind of comment that has got a lot of publicity in the last couple of months about commissioners saying things such as, "If the tenants do not like it, they can move," quite apart from the intent or the motive for saying it, is the kind of thing that tenants believe commissioners believe. Tenants do not get a sense that people understand their problems. We need commissioners who can reflect the kind of concern tenants have. We need a system that will reflect the concerns.

15:50

I have perhaps done it more than a lot of people. I refer to the Ontario Labour Relations Board as an administrative procedure where both employees and employers have representation. The system works in dealing with a lot of the problems. We need an administrative tribunal that reflects the concerns of the parties in the same way. If you have that, you go a long way toward making sure people are happy with the system. If people are happy with the system, it will work. If they are not, it will not work. With all the good intentions of everyone, if people nevertheless perceive that they are not being treated fairly, it will not be a good system.

Our concern is that through the administrative procedure which determines the rents apart from a hearing, people will feel they are not being heard. To a certain extent, they will not be heard because it will be an administrative proceeding, a decision made in your absence. You will not necessarily know what went into the decision. We are concerned that at the first instance there be an opportunity for a hearing. Otherwise, a lot of rights will only be realized by taking the additional step, the appeal, and then you are into protracted periods of time before the result is in.

The Acting Chairman: And in conclusion.

Mr. deKlerk: Perhaps I can comment on the process, because it has been commented a fair bit, that it is important to get away from the adversarial character of a lot of these hearings. It is important to realize that landlords and tenants to a great extent have differing and opposing interests. Landlords want rents to go up and tenants want rents to stay down. To the extent that there is a limited amount of money, those interests will be fighting and that is adversarial.

The judicial system, at least in this province, has recognized that the adversarial model is a good one for determining the truth. I commend it as such, not to give the impression that people are fighting and are ready to grab each other by the throat and will kill each other if let go; it is not that kind of adversarial process. If there is a good hearing, people will get along. If the truth comes out, you can live with the decision as long as you feel you were properly dealt with. In that way, landlords and tenants will get along a lot more, particularly if tenants feel that their concerns, especially around maintenance, are being dealt with fairly. In my respectful submission, that is the way you begin to build a sense of co-operation.

To suggest that you want to get rid of the adversarial nature of the proceedings and therefore not have a hearing is to try to cover up the differences and to deal with them behind closed doors. My concern in dealing with a lot of tenants is that if a tenant found the landlord made an application and the result was not acceptable, the tenant would perhaps ask: "What happened behind those doors? What happened when the administrator was making his decision? Did he call the landlord? He must have."

Ms. Caplan: The act provides that the tenant can be available at the meetings with the--

Mr. deKlerk: I appreciate all that. The problem is that there is nothing in the legislation that says, "The minister can base his decision only on what was said at the hearing." Right? The Statutory Powers Procedure Act says that you have to base your decision on the evidence that is presented at the hearing, nothing else. Specifically, the administrative procedure is exempt from the SPPA and that is the concern.

Ms. Caplan: The appeal procedure is available for anyone who is dissatisfied with the administrative procedure, which will streamline the process.

Mr. deKlerk: We do not think it will. It will mean that to get the sense that they have had a fair shake, people will have to appeal. We think it will be worth it to have that step first. You may as well have it right away.

Ms. Caplan: Without being argumentative, many tenants are not organized, sophisticated or cannot afford the lawyers and consultants required for that kind of courtroom environment, and are in fact intimidated by it. It seems to me that if you can have an agreement worked out through the administrative process and a good relationship restored between the landlord and the tenant, that kind of good relationship will benefit everyone, as opposed to continuing with this adversarial system where nobody is talking to each other at the end and people are saying, "We do not have a decent place to live, because if we have a problem with another tenant, nobody will talk to us, neither the landlord nor the superintendent."

Mr. deKlerk: With respect, if people are intimidated by a hearing and feel they cannot come out and talk at a hearing, which is a public forum presided over by a quasi-judicial person, then they are not going to feel comfortable at some quasi-informal place where the landlord will be sitting there and you do not know what happens afterwards.

Ms. Caplan: We disagree.

Hon. Mr. Curling: You talk about the sensitivity of the person who is doing that in one instance. In another instance, you said it is an adversarial situation. I can share with you what I observed as I went around the province with these hearings. I found, whenever we had people presenting their input into this bill, that as soon as we, the politicians, became argumentative, it became them against us. As soon as we sat down to share the input about how we can improve this bill for everybody else, we got a lot of better ideas and it was not adversarial.

In one instance, I gather you are saying, "Let us make it less adversarial," because people want to talk about their problems and get people who are sensitive, so it is the individual, not the process.

The Acting Chairman: I do not think we are going to resolve this dispute.

Hon. Mr. Curling: There is no dispute.

The Acting Chairman: There is a dispute here. It seems that some people believe in love and trust and pixie dust and some do not. I think that will always be the case. That is a quote from a councillor at city hall. I do not like it much myself.

Hon. Mr. Curling: On that point, when we get people moving to understand each other and one is badly interpreted, then we get adversarial. I am saying the administrative process will bring about--and I do not want to use the word "dialogue"--an understanding of what the issues are to resolve them. If one feels beyond that, then one can talk about the adversarial process of the quasi-judicial situation.

Mr. deKlerk: To conclude our comments, you cannot have fairness without some kind of very clear procedure, nor can you have fairness without very sensitive people. You need both. Certainly our experience is that if things are too loose, people will not know how to fit in. There is nothing wrong with some formality to the proceedings, because people will tend to respect them more. For example, when a person is put under oath, you tend to believe him more quickly than if he had not been. For a lot of people that formality means a lot. In our view, as long as you do not know that the decisions being made are based on the evidence that people are giving in public, then there are too many opportunities for some suspicion.

The only other thing I will say about the whole process is I think there may be situations where you will want to take it out of the quasi-courtroom kind of scenario. That is where you have a real balance of ability and power, where in fact you can expect the parties to negotiate some kind of arrangement, which can be given the stamp of approval by the minister. In all honesty, I do not think most tenants are at that position. If you are talking about bargaining or negotiating, most tenants would get beaten, because they do not have the resources, the understanding or the time. Most of them work during the day. Who wants to come home at night and do more work? Those things militate against a lot of meaningful input by tenants.

16:00

Mr. Blazer: We feel the bill fails to live up to some major commitments made by the government. In our view, the coverage of post-1976 buildings is somewhat illusory because it completely fails to provide the complementary function of security of tenure. Rent review is clearly necessary to provide security of tenure. Tenants in post-1976 buildings have security of tenure under the Landlord and Tenant Act, but it does not mean anything because of the availability of economic eviction. We do not think Bill 51 will do very much about that problem.

The provision for costs no longer borne was part of the accord. We feel the August 1985 cutoff date will make this provision 95 per cent useless.

With regard to the rent registry, we have some serious problems with the concept of an amnesty. We are not talking about an amnesty here. That is not an accurate term because there was never a penalty for charging illegal rent. We are talking about extinguishing the rights of the victim.

There was a commitment to a four per cent guideline. We understand that under this bill the guideline will be higher than four per cent.

I will skip over administrative review because we have just had an interesting conversation about that.

The seventh point, remove investor confidence, was one of the cornerstones of government policy. There is a real problem because of a confusion between the two different kinds of investment. To a large extent this bill seeks to encourage investment in existing stock. As Mr. deKlerk pointed out, that does not create a single new unit. We do not see a problem in finding investors for existing stock. Probably every apartment building in this province has an owner. That is not the problem. You even have been told by the landlords that the bill will not do very much to encourage new construction.

This brings us to our final point. The conclusion we come to after all these considerations is that because of a whole host of factors, many of which are unique to the housing market, the private market is not able to meet the housing needs of the vast majority of tenants in Ontario. Whether there are rent controls or not, and no matter what kinds of rent controls, in terms of increasing the supply and meeting that demand for anything but the very high end of the market, the private sector cannot do it.

The conclusion we come to is that there has to be a very major shift in the direction of government policy and a major commitment to funding publicly owned or nonprofit, corporation-owned housing. The key word there is "nonprofit" because this housing is inflation-proof, speculator-proof and will be a very long-term asset. As Mr. deKlerk pointed out, we do not hold up the Ontario Housing Corp. as a model necessarily. There are numerous other models, many of which have been put into practice, of very successful occupant-managed housing and municipally-run housing on a nonprofit basis.

We are disappointed that the government commitment to fund nonprofit units has been diluted considerably from what was understood at the time of the accord. We feel even that commitment is insignificant compared to the need that exists right now. There has to be a serious change in policy. The government should forget about trying to stimulate supply by throwing money to landlords. It is not going to work.

Ms. Caplan: In the nonprofit housing models, would you remove the percentage requirement on the affordability side? In nonprofit co-ops, I believe 25 per cent is set aside for those with affordability problems who require assistance.

The Acting Chairman: Not any more.

Mr. deKlerk: It varies according to the program.

Ms. Caplan: Would you say that those roles should be open to those in need first and that you would not have a mix of housing, that in your social housing projects you would have all--

Mr. Blazer: All poor people?

Ms. Caplan: Yes.

Mr. Blazer: No. We do not advocate that at all.

Ms. Caplan: Do you have any idea of the massive government investment if there were no private sector interest?

Mr. Blazer: Yes, we do.

Ms. Caplan: We would have everybody living in government housing.

Mr. Blazer: No.

Mr. deKlerk: If you look at the government programs, first, you have to realize there is not a single housing unit built today without some government money.

Mr. Taylor: That is not true.

Mr. deKlerk: I should say rental housing.

Hon. Mr. Curling: That is still not true.

Mr. deKlerk: Whether it is in the form of direct government subsidies, tax write-offs or some other form, government subsidy goes into the creation of rental housing.

Mr. Taylor: Yesterday we heard there were 178 units.

The Acting Chairman: What is the relevance of that? That means there is not much going on in the private sector, but they are still being subsidized.

Ms. Caplan: The representation we are hearing is clearly that the thrust for housing in the future should be that everybody should live in a government-owned and government-operated building.

Mr. deKlerk: With respect, I think you are caricaturizing and you are missing the point. What we are saying is that--

Ms. Caplan: That it should not be only for the needy; it should be for everybody. That is the evidence I heard.

Mr. deKlerk: We think that solving the housing problems today will take a lot more government money than has been put in before. If you put money into housing, you are better off putting it into nonprofit housing, because you will get the units and keep them. There are a number of forms of housing ownership that are not public housing and not owned by the government. They are run by the people who live in them or by social agencies that are concerned about housing, not necessarily profit.

I think you are being a little bit unfair in saying that we are saying everyone should live in government housing.

Ms. Caplan: The difficulty I have with using only the nonprofit model is that if you are saying it is open to a full mix, as it is, and you are not dealing with the affordability problem and the people who need housing most, you have government subsidizing people who do not need assistance and who could afford to live in private stock if it were available. In the priority for government spending, you first have to look at those in the most need and you must have a balance, as the minister has, in the social housing program. Is it 16,700 units that have been announced so far?

Mr. Taylor: Three thousand.

Hon. Mr. Curling: No. There are 16,000 so far. She asked how many have been done so far.

Ms. Caplan: Is it \$500 million that has been committed?

The Acting Chairman: At least half of those units are not affordable, because they are not subsidized. They are market.

Hon. Mr. Curling: Then you are talking about the ratio.

The Acting Chairman: His units are not affordable.

Ms. Caplan: That is exactly the question I am addressing.

The Acting Chairman: They are saying you have to do more. That is all they are saying.

Ms. Caplan: Would you say that?

Mr. deKlerk: "How much is it going to cost?" is a nice question. Why do we not turn the question around and ask, "How much is it going to cost this society not to spend this money?" How much does it cost to keep people living in the underground parking lot at city hall? How much does it cost us to keep people living on the street? How much does it cost us when people have housing problems and they are put in hostels? Is anyone measuring those costs?

The Acting Chairman: Yes. It cost about \$80,000 in the last year of Drina Joubert's life. She is dead, and it cost about \$80,000 of social money.

Mr. Cordiano: You assume there is no response to that. Without getting rhetorical, Mr. Chairman, if you can restrain yourself for a moment--

The Acting Chairman: It would solve the problem fairly quickly, would it not?

Mr. Cordiano: --the question is how much will your notion of housing cost? That is what I asked. It is not a question of whether the government should provide any housing at all, because it is and \$500 million is quite substantial.

Mr. Taylor: You are just getting warm.

16:10

Mr. deKlerk: Just to wrap it up because we could--

Interjections.

Ms. Caplan: I do not think that everybody wants to live in government-owned and operated housing, or even that everybody wants to live in that kind of environment. I think people want a choice. I hear tenants say, "I want to (inaudible)"--

Mr. deKlerk: I am sure the minister does not.

Ms. Caplan: --"and I want a choice."

Hon. Mr. Curling: Mr. deKlerk, I fully agree that the lack of supply of affordable housing is causing most of this problem and government--

Ms. Caplan: There is no choice.

Hon. Mr. Curling: --must do a lot to deal with that. As a matter of fact, I would say that 16,000 units within this year is a lot. Administratively and physically, it is a lot. We would have liked to have covered--and this is not political--all the backup need and to have solved it in the first year, but it is practically impossible.

Interjections.

Mr. deKlerk: Let us be serious for a moment.

Hon. Mr. Curling: It was a very serious statement I just made.

Mr. deKlerk: I do not think anyone is suggesting that any government can snap its fingers and have the problem solved. Everyone admits this is a problem that is going to take a decade to solve, if we are lucky. I am not involved directly in supply, but when I talk to people in the nonprofit co-operative sector, they say that for 1987 they were granted fewer units than they were granted last year.

Hon. Mr. Curling: That is the nonprofit sector?

Mr. deKlerk: The co-ops.

Interjections.

Mr. deKlerk: That is one. I hear that the municipality of Metropolitan Toronto is not satisfied with the number of units it got. I hear Toronto Non-Profit Housing Corp. is the same. What we are seeing is that the major parties to building social housing in Metro Toronto--I will just deal with that--in the past 10 years are being cut back.

Hon. Mr. Curling: If I can stop you there, how can I then make a statement that says 16,000 have been approved? It is more than has been done in any year in the past decade. In the meantime, you say you are hearing from the municipalities and then you adjusted that to say the co-ops. There is another explanation for that. The feds were going to come through with the other aspect of that and asked us to leave a certain portion alone. It is not fair for you to say there have been cutbacks when there are more.

Mr. deKlerk: I am just telling you what we were told by the co-op sector here in Toronto. They said their allocations for 1987 were smaller than they were in 1986.

The Acting Chairman: That is a fact, and we should not argue about this.

Ms. Caplan: Can I ask a question about the facts of the allocation of the social housing program?

The Acting Chairman: Maybe we can get a report next week when we are back because we are way off topic now.

Ms. Caplan: No. They are on to the social--I would just like to have a quick--

Mr. Peters: The co-op movement was given a unit allocation under the provincial nonprofit program that, frankly, was not available to them previously because the only access to nonprofit units or co-ops was the federal program. The federal program developed its own co-op program this year, which is not social housing. It is called a 10-year support program, and only 30 per cent of the units are available for income testing. It costs roughly \$11,500 per capital subsidy even with an index link mortgage. For the provincial nonprofit program, co-ops were given a special allocation which was never available to them before.

Ms. Caplan: So it was greater.

Mr. Blazer: We have been told their overall share of the nonprofit program has dropped by about half.

The Acting Chairman: The feds are cutting back, and the province is increasing. There is no question about that. The way it has worked out for some of the providers is they have fewer units to provide under all programs this year than in past years. For some providers, that is the fact.

Interjection.

The Acting Chairman: Some more and some less.

Mr. Blazer: We certainly accept the minister's statement that the number of units provided by the province this year has exceeded any previous year.

Interjection: This decade.

Mr. Blazer: However, we were talking about some specific providers, namely, the co-op sector in Metro Toronto, the Metro Toronto Housing Co. Ltd. and Cityhome.

The Acting Chairman: We are going to be taking that up quite aggressively in the House come October 14, so do not be concerned.

Hon. Mr. Curling: Playing politics instead of the real issues.

The Acting Chairman: Housing is political. The sooner you realize that, the better off you will be.

Let us get you guys concluded there.

Mr. Blazer: I think we are finished. We came here to talk about Bill 51, and I think we have done that. We hope you will read the brief because there were some crucial sections that we just skimmed over, especially the section on chronically depressed rents, and we would certainly be happy to come back some other time with perhaps people more qualified than we are to talk about ways in which the government could provide housing. There are certainly people who are more expert on that than Mr. deKlerk and I.

Mr. deKlerk: In conclusion, we would like to offer ourselves next week, when I guess the committee will be going through the bill clause by clause.

The Acting Chairman: No, not quite. Next week we are going to do a review of all these wonderful things we have heard. We will not start the clause-by-clause discussion until the week of October 14 when the House returns.

Mr. deKlerk: As Mr. Blazer said in his opening comments, we have had a lot of expertise and experience in dealing with rent review. If we can be of any assistance to the committee in dealing with amendments and suggesting how they may or may not work, we are prepared to put ourselves at your disposal to assist you. Thank you.

The Acting Chairman: Thank you. Mr. Perkell could not come today, so we are now only 17 minutes late for Claude Latrémouille, whose exhibit is 126. Thank you for waiting.

CLAUDE LATREMOUILLE

Mr. Latrémouille: My name is Claude Latrémouille. I am a tenant and have been a tenant in the same unit for the past 13 years, therefore, in a pre-1976 building. It is a 413-unit residential complex located at the corner of Jarvis and Wellesley in Toronto. The building is called Plaza 100. Prior to October 1, 1982, our landlord was the Cadillac Fairview Corp. Ltd. Since then, we have not known who our landlord is, but I see my guardian angel at the back, that is, the landlord's representative, Mrs. Waese, who appeared before you yesterday.

The title of the property is held by a corporation supposedly incorporated in the Republic of Liberia, which has no head office anywhere in the world to our knowledge, and which, so far, has been unable to identify itself properly with the Ministry of Consumer and Commercial Relations under the Corporations Act or under the Extra-Provincial Corporations Act, 1984.

Plaza 100 never went to rent review prior to 1982 and prior to the passage of Bill 198. I have represented the Plaza 100 Tenants' Association before the Residential Tenancy Commission during the past four years. Today I

represent myself only, and on one specific issue I represent a number of tenants of Plaza 100. For the information of the committee, I have read the bill and Hansard. I am, therefore, familiar with what this committee has been told in this room.

I would like to touch briefly on a number of issues. If you would kindly refer to the exhibit that has been filed, the first page is simply a table which seems to escape many people when they argue whether rent review caused the vacancy rate shortage or the vacancy rate shortage caused rent review. If you look at this table, you will see that, for the 10 years from 1970 to 1980, the vacancy rate was rather low before rent review came into force. That seems to answer the argument that rent review is responsible for a low vacancy rate.

I want to address some sections of the bill now.

Section 1: The definition of "tenant" is ambiguous. Is the owner of one share of a corporation, for instance, the Cadillac Fairview Corp. Ltd., when it was the landlord, excluded from the definition? If so, the result will be rather strange.

16:20

I would like to recommend to the committee an amendment to subsection 11(b). If I may quote myself, it will be faster, and people can read Hansard.

My version reads: "11. The minister shall...(b) investigate cases of alleged failure to comply with an order made under this act or under the Residential Rent Regulations Act, the Residential Tenancies Act or the Residential Complexes Financing Cost Restraint Act or to comply otherwise with the provisions of any of these acts and, where the circumstances warrant," etc.

In other words, the amendment would ensure that the minister is not blocked by a clever landlord saying: "You do not have the right to inquire into this. The act says you have only the right to inquire into failure to comply with Bill 51 and not with the previous legislation."

In my respectful submission, clause 13(3)(c) should be deleted entirely. I have read the minister's proposed amendment. It does not appear to be enough, because in my view, subsection 94(4) should be deleted also. I will get back to that later.

I recommend an amendment to subsection 19(1), to read at line eight, "other notice (a) to the tenant, by sending it by mail to the address set out in the notice given by the tenant; and (b) to the subtenant." At the moment, subsection 19(1) does not cover the notice to the subtenant, and he is the person living there.

Subsection 19(2) at line four should be amended to read, "increase given, any pending application made by the landlord and by any tenant under this act or the Residential Tenancies Act and any other," etc.

That would ensure that the pending applications initiated by a tenant are given to the new tenant and also that they refer to the current Residential Tenancies Act, because there is a backlog. At the moment, there are many applications pending before the commission under the current act; so even if the new bill came into law tomorrow, the new tenants would still have to be notified about the current pending applications. I have read the minister's proposed amendment and it does not appear to be enough, in my view.

Subsection 24(6), line four, should read, "the landlord and all tenants who are parties...." The present bill reads "or," but the case was initiated jointly by both parties. I think both parties should be able to say whether they want to withdraw the matter or not.

I recommend that you delete paragraphs 56(1)5 and 6. In my view, you are asking for trouble if you allow the landlord to give his interpretation of the facts and not the facts. Whether the landlord is responsible for providing certain services is a question of law, which should not be made the subject of a statement from the landlord.

Subsection 57(1) is in error, in my view, because it forces the minister to create a rent increase where there may not be one because of a lack of proper notice of rent increase. In my own case, this section would create a "deemed increase," which is now illegal and is being challenged before the commission. In a few words, this section is screwing me.

The Acting Chairman: Try not to mince words.

Mr. Latrémouille: I am sorry. I will try to be clear.

Subsection 58(2) should be amended to include every tenant since August 1, 1985, in line 2. The present wording does not include everybody who may have lived there, and I think they should also be notified.

I have read the new proposed amendment to section 60 and, in my view, clause 60(1)(a) of the current bill and clause 60(1)(b) of the proposed amendments, are deeply offensive to tenants who went through the ordeal of rent review. It means that the landlord may apply for rent review 11 years after the fact, when the tenants are no longer around to challenge his claim. Please delete that.

Subsection 82(1) should be amended to apply to residential complexes which went to rent review prior to the coming into force of the bill, and should cover any operating costs no longer borne. The bill should allow for the automatic elimination of operating costs no longer borne, without necessitating a landlord application. The committee will find in the exhibits a few documents which refer to this item.

In 1981-82, wage increases were much higher than they are now. A landlord going to rent review would then have had these higher wage increases built into his rents for ever. If you look at the wage settlements for the period between 1979-1986--there are two pages; one page breaks it down between public and private--you will see the substantial decrease in that very important portion of operating costs. They are not extraordinary operating costs since wages are part of the normal operating costs, but if you look at the graph, you will see that these should be removed according to a new formula.

Municipal taxes also decreased substantially. If you care to look at the other exhibit, it is an article from the Globe & Mail, September 11, 1986, stating when a court may order taxes to be held. There may shortly be other events touching assessments that may result in the reduction of taxes. Therefore, these reductions should be eliminated automatically from the ordinary operating costs.

Rent review fees no longer incurred should also be eliminated automatically. Why should we continue to pay for rent review fees when the landlord does not go to rent review?

If a corporate landlord sells to an individual landlord, the capital tax disappears completely from the scene. The tax follows the former corporate landlord. Therefore, it should also disappear automatically from the rents, without a landlord application.

In my view, the biggest flaw of Bill 51 is an assumption that rents must increase and that that increase must be based on the previous rent. I disagree entirely.

Operating costs should be zero based and the yearly index, assuming that it is fair and accurate, should be applied to that zero base, not to past rents, legal or illegal. There is a lot of banky-panky, if not outright fraud, perpetrated by landlords before the commission, and the commission has not been known to be vigilant in this respect. A commissioner even incited the landlord to take action against me because I alleged that fraud was being perpetrated on the commission.

The best way for a fresh start would be to wipe out the injustices of the past, base the system on accurate, normal, real operating costs and then and only then apply a fair and accurate yearly index. To base future increases on the mess of the past, deeply offends my sense of justice and fairness.

As an example to illustrate that, I would like to address the issue of recoveries of costs by landlords. The landlord claims a cost to the commission, the commission allows the costs and the landlord recovers, but he recovers after going to the commission. The landlord keeps the recovery and, as a result, the tenants pay for the costs in the order and the landlord gets back the money back and gets back even more than the money.

There is a very important case which affects the building in which I live, where the landlord claimed expenditures for the projected year; no problem. The commission allowed the expenditures and as a result of the expenditures made, the landlord recovered approximately \$79,700. The tenants will never see one penny of that, but they are paying for the costs which were incurred in getting the landlord that \$79,700 back. That is grossly unfair.

16:30

Section 83 should be deleted in its entirety. Part building review after a whole building review can only engender unfairness and inequities. The only fair way to allow part building reviews for some units would be to reduce the basic rents of all the units applied for by an amount representing all prior expenditures made to the complex but not relevant to these units, and then apply an increase for capital costs attributable to these units. In the long run, this would probably balance out. In the long run, all units should pay for all the cost of all the units. Therefore, it is better to leave it the way it is when the building goes to rent review. Otherwise, it creates a gross unfairness.

Section 84 should be deleted for the same reason. All existing rents include built-in capital costs that may pertain to these units. The landlord would therefore be in a position of double recovery.

Subsection 88(1) should be amended to make clear that the comparison between rents should be made between pre-1976 complexes only. At present, the comparison could be made with post-1975 buildings. This would be unfair.

Subsection 88(2) should be amended to read in the sixth line, "the 29th day of July 1979, to the day," etc. If new ownership has occurred since rent review, the remedy was an application by the landlord. There should be no further remedy.

Our building was sold on October 1, 1982, by Cadillac Fairview. Why should you cover the big flip of November 1982 and not cover our building? This is not fair.

In subsection 94(1) the definition of "separate charges" should be amended to read as follows:

"'separate charges' means the amounts of rents charged separately for any service, facility, privilege, accommodation or thing that the landlord provides, or at any time since the 29th day of July 1975 has provided or has allowed other persons to provide for the tenant in respect of the tenant's occupancy of the rental unit."

The present wording does not cover existing services, which could be discontinued just before the coming into force of Bill 51. The present wording of the bill does not cover services that the landlord may have farmed out to his suppliers, thereby forcing tenants to deal directly with these suppliers and to pay them. We know of cases like this in the building where I live.

Subsection 94(2) should be amended to read, "Except where the rent in effect at any time since the 29th day of July 1975 results in a basic unit rent used by the minister which includes any amount that is attributable to the object of any separate charges, in any order," and then the rest of the section as it is at the moment.

The purpose of that is, of course, to give the minister the power to create a separate charge only for a new service, facility or privilege; otherwise, you would get partial double recovery. The landlord gets the service in part from the existing basic rent and then gets it again from the separate charge. Therefore, separate charges should not be equalized without a corresponding reduction in rents, because otherwise that also results in a partial double recovery.

I want to spend some time on the issue of apportionment of rents between the units of the same residential complex--that is, sections 79, 81 and 89 of the bill. In the complex where I live, most rents are legal rents. There are huge differences between rents for identical or similar units. In some cases, rents for a one-bedroom unit are higher than rents for a two-bedroom unit. I tried to avoid this by writing to the minister in due course, but that was another minister in another year. In December 1982 the minister replied, "Go to the Thom commission." I did, and we are still discussing this problem.

If you will please refer to three pages of the exhibit, one shows the normal pattern of rent that once existed in the building where I live. The second page shows what happened to it due to rent review and due to the normal guideline increases. The third page deals with an analysis for each apartment category of the discrepancies or the differences in rent that are current; that is, current in the sense that they were ordered last week by the commission. You should add six per cent, four per cent or another four per

cent to those to get the true rent. My purpose is not to argue rents; it is to argue discrepancies in rents.

Please refer to the analysis, to the page that has strange little columns, and look at the 04 units in the building, the first line at the extreme right. That is the highest difference in rents in our building. There are tenants at the moment, or two years ago so to speak, paying \$164 difference in rent for identical units. Some of them are indeed very close to each other. There is no question of height; it is a question of the unfortunate results of rent review legislation.

The Legislative Assembly of Ontario and the landlords are responsible for these huge differences, not the tenants. I ask you to correct the portion of these differences that is to be blamed on the Legislature. With all due respect, if I may say so bluntly, you created the mess; you clean up the mess. On this issue, I speak on behalf of a number of tenants. They have authorized me to file with your committee a petition to amend sections 79, 81 and 89 of the bill to remove the five per cent cap on rent increases due to apportionment--

The Acting Chairman: Excuse me. The clerk is behind you and he will pick up that exhibit.

Mr. Latrémouille: --to remove equalization of rents in its entirety and to replace it with a formula that will restore the original rent pattern in effect at Plaza 100 prior to rent review.

When the rent review act came into force in 1975, it caught certain rent increases in its net and missed certain others. As a result, rent differences were created for similar or identical rental units on top of those that may already have been in existence. That is the landlord's problem; it is not due to the Legislature. Since the 1975 act did not provide for whole building review, it created further rent differences for similar or identical units when some units went to rent review and others did not.

In an attempt to correct the situation, the 1979 act provided for whole building review and for the apportionment of the rent increase by the Residential Tenancy Commission. The 1979 act therefore made possible the restoration of the original pattern of rents in a residential complex as it existed prior to the coming into force of the 1975 act. However, the 1979 act did not protect tenants who may have benefited from a favourable prior review of their units under the 1975 act and allowed the commission to wipe out a gain made by the tenant in such a review.

The 1982 act effectively stopped the wiping out of gains made by some tenants at reviews between 1975 and 1979. However, the 1982 act also created undue hardship on the tenants hardest hit by the accumulated rent differences arising out of the coming into force of the 1975 and 1979 acts; that is, those paying the highest, regulated rents for similar or identical rental units in the same residential complex. All rent increases were to be applied as a percentage of all existing rents, and therefore the higher the rent, the higher the increase in dollars. The 1983, 1984 and 1985 acts exacerbated that situation by not correcting it in any way.

Bill 51 seeks to correct some of the errors of the past by committing the further error of creating by statute for the first time in Ontario equalization, that is, the setting of all rents for identical or similar units

at the very same level, regardless of the historical reasons for the differences.

16:40

But to soften the blow, Bill 51 limits to five per cent the component of the rent increase attributable to equalization. It also allows for a phasing-in of the equalized rent increase, clause 89(1)(c). On behalf of the tenants I represent on this issue, I would like to recommend that Bill 51 be amended, to remove the necessity of this double cushion by removing equalization altogether and reinstating pure and simple apportionment. Not apportionment as it stood in the 1979 act, but as a way to correct rent differences created by the various rent review acts coming into force and by violations of these acts, while protecting the positions of tenants who may still benefit from past individual rent reviews which would be jeopardized by Bill 51 as it currently stands.

I will suggest another amendment, that the wording of section 79 should be changed to "the minister shall" instead of "the minister may." There should be no discretion in the minister's power in this respect, because these issues have to be addressed. That is in the second line of subsection 79(1).

Equalization of separate charges in section 94, as I mentioned would place the landlord in a double recovery position and place the tenants in a position to pay more than once for the same services. Please delete this.

Mr. Chairman, these are my comments to the committee.

The Acting Chairman: Thank you. I think those are among the most direct and succinct comments we have had. For the committee's benefit please note that the deputant has filed 44 signed and dated petitions in respect of his apportionment views.

Do you have any estimate of the number of units that might be afflicted by the same problem or is it impossible to know?

Mr. Latrémouille: Oh, absolutely. It is very easy. It is a mathematical thing: 50 per cent. By definition, when we go to rent review, in the past the commission could apportion the rents between the rental units. It now still can. But the apportionment affects the entire building so, by definition, exactly 50 per cent of the building suffers from one formula or benefits from the one formula, or the other way around.

As a matter of fact, the entire tenants' movement is split 50/50 on this issue. That is why people are very uneasy about it. That is also why most tenants' associations do not have a mandate to speak on behalf of their members on that because it would pit one group against the other. That is why I am not representing my tenants' association on this point. I would be fighting fellow tenants and I do not have the mandate to do that, but I am frank enough to say so to the committee.

The Acting Chairman: So of the 400,000-odd units that have been to rent review, half of those have--

Mr. Latrémouille: It depends when. If they went between 1979 and 1982 they may have had an apportionment to restore the original pattern; therefore, they may not suffer from that. But those who did not go to rent review, and among those are the Cadillac buildings--they were sold before the

big flip. We went to rent review after Bill 198, so we got caught. We never got the benefit of the former legislation and we got caught with Bill 198, which puts a huge increase--we have nine-per-cent and 10-per-cent increases on top of whatever was piled up since 1975. We have had huge rent increases, the highest rents I am talking about, and with no relief in sight.

Even Bill 51, if there is a cap of either two per cent or five per cent, it does not matter. As soon as you put a cap, you kill it. If you put a phase-in you do not kill it, you just delay the amount of time it will take to accomplish that. But with a cap you kill the system. Because it will never go above five per cent of the existing rents, and that is it. That means we will go on paying higher rents for ever on account of nonapportionment.

Hon. Mr. Curling: So less than 50 per cent, then you say that some adjustments were made unevenly--

Mr. Latrémouille: By 50 per cent, I meant in a given building.

The Acting Chairman: You have made representations to the Thom commission, I take it.

Mr. Latrémouille: Oh yes, I did. I explained my facts to the Thom commission. Commissioner Thom was very sympathetic and recommended that the section in Bill 198 be allowed to expire. He realized that it was ridiculous. Do you know the reason for this section of the bill? People were afraid of what was going to happen to the big flip. So they panicked, and that was put in the bill without considering the consequences. It never happened because the big flip never went to rent review because it is in receivership. We went to rent review. We are not the big flip and we got hit with Bill 198.

The Acting Chairman: You were a little flip.

Mr. Latrémouille: We call it the little flop because we do not know who our landlord is and the Minister of Consumer and Commercial Relations does not appear to know either, so here we are.

The Acting Chairman: Thank you, sir. The last before the supper break is C. Shainhouse.

C. SHAINHOUSE

Mr. Shainhouse: Ladies and gentlemen of the committee, I am not as prepared as many of the people who have been before the board, I am sure, but I figured that if the government has been fair enough to allow individuals such as myself the opportunity to speak, it is an opportunity I would like to accept. I am a property manager in southern Ontario. I manage a number of apartment buildings and I am also a tenant in an apartment. Therefore, I can speak on both sides of the coin.

I am sure most of the points have been raised already and some of the points I may make are probably redundant and, therefore, I will not go into great detail. I wanted to get some things off my chest from which you might hear other views. To preface to my remarks, I would like to express what is my opinion and, I am sure, the opinion of many Ontarians and that is that the rent review is a political decision. One of the difficulties that you are having is that you are bound by political decisions and many of the recommendations you make, whether they prudent and proper, are limited in scale due to the political nature of the process.

The original rent review program was instituted when there was a Conservative minority which needed the help of the NDP to stay in power, and this started the rent review program and process. It was supposed to be a short-lived program, as you know, of eight per cent and six per cent. Thereafter, there was to be no rent control. In a number of buildings I looked at for clients, people were projecting the rents based on this type of scenario.

It was to be a short-lived stopgap to allow everyone in the industry to look around and take account, specifically due to the oil embargo and the large inflation which was occurring in the costs of utilities. Therefore, to protect the small worker and the tenant, the government decided to bring in some type of legislation to give them a breathing space since they were, of course, the hardest hit.

Unfortunately, when the Conservatives came to power as a majority, they realized that the power of the tenant was great. They did not care whether the budget deficit increased or not so long as they received sufficient votes in order to stay in power. Whether this is true or not, this is something I felt, and I am sure I am speaking for many Ontarians. In fact, we see that, over the years, the population in apartment buildings has grown in Metro Toronto to more than 50 per cent where it used to be down in the 30 per cent range. It has grown to be a majority. Therefore, the power of the tenant voter is becoming much greater and, rather than a necessity, people look upon the issue in a political nature.

This was made ever so clear when the Conservatives decided to lower the ceiling to four per cent from six per cent after eight years. This was done just before the election in order to try to attract more votes. Unfortunately, even the Conservative voters were disillusioned by the Conservative government, which was not thinking of the people of the province but only of itself that it would come up with such ludicrous legislation. Even people like myself probably voted for the Liberal Party, not because they necessarily approve of the Liberal Party's platform but because they wish to show their disapproval.

16:50

Hon. Mr. Curling: The vice-chairman should come in here.

The Acting Chairman: I said it sotto voce, Mr. Chairman--I am the chairman. I am sorry, we have got a little goofy here.

Mr. Shainhouse: That is okay, I do not mind. I should point out to the minister in passing that although I am not very politically involved, I have heard only good comments about him, such as that he hears and he listens.

The Acting Chairman: He does. That is true.

Mr. Shainhouse: That is a wonderful thing.

Hon. Mr. Curling: Thank you very much.

Mr. Shainhouse: If I am giving stabs at the political parties, it is simply because politics is politics. Unfortunately, from listening to a few people prior to myself, I feel that rent control has become a hot and emotional issue. One cannot look at it logically because of the way it has

gone over the past 10 years. It was supposed to be a two-year program and then an eight-year program. Now it seems it may be perpetual; one does not know.

When the Liberal Party came in, it wanted four per cent and was very strong on keeping rent control. However, it seems that they themselves were not listening in the sense that they are not moving very quickly. They are just passing it, while they are at least taking the view of the people, realizing that the business community is the Ontario community. The people of Ontario are the business community. Big business and the little guy are not separate; the little guy is business. It is small business that keeps this province number one province in Canada.

This is the case with Bill 51. Many tenants groups have denounced it, because it is an emotional issue. They seem to want to get more for nothing. Canada has progressed because of the spirit of the pioneer, taking a risk to make a gain. Such is the building business. People took risks to build apartment buildings and it is only because of the rent control situation that the market has become zero.

While I have heard that the Social Planning Council of Metropolitan Toronto states in its brief that rents in new buildings will be sufficient to allow developers to obtain competitive rates of return, it seems to me that this is simply a case of bureaucrats telling the business community that if it does this, it will make money. If it were as simple as that, the government would get into the building. I am sure it wants to have projects that make money instead of always losing money.

Developers would like to make a return on their money. This is simple logic. If the returns were there, as the Social Planning Council of Metropolitan Toronto says, everyone would be jumping in. Every time there is an area with a tax gain or a scenario with money to be made, big business, followed by little business--everyone jumps on the bandwagon. Obviously, this is not what is happening now. How do you expect a builder to build an apartment building when the government need not follow any promise made by its predecessor? In essence, it seems to be deceiving the public.

I would like to go to an aside for a moment to make an interesting comment. We see now that there is no vacancy. The only reason there is any vacancy at all is that the federal government under its program is building senior citizens' apartment buildings, which are basically 100 per cent financed by the federal government. Perhaps the province is providing funds and the municipality as well.

Hon. Mr. Curling: Tell me about that program.

Mr. Shainhouse: I beg your pardon?

Hon. Mr. Curling: Is that a new program?

Mr. Shainhouse: No. This is subsidized housing for seniors. If you go along Bathurst Street, you will see three of them being built. Many of them are co-op housing, which is being built in Thornhill. There are two large co-ops. William Lyon Mackenzie is one of them and there is the Crown Heights development with which I am familiar. One of my friends moved into this type of home because it is subsidized. They are largely federal programs, where the government gives the mortgage money--

The Acting Chairman: The minister is doing it.

Mr. Shainhouse: You are doing it provincially.

Mr. Taylor: The government should be putting its signs on them and taking all the credit. I assume, as you do, that they are federal programs.

Mr. Shainhouse: The senior citizen ones may be.

Hon. Mr. Curling: I do not care who takes the credit.

Mr. Shainhouse: If it is the provincial government, more power to it. The reason there are any vacancies at all is that it is all the government building. Even though it is not doing the actual developing, it is through its effort and money that units are being made available and causing this scenario.

I recall a situation my father told me about. A good friend of his 30 years ago had a beautiful home in Forest Hill. He realized that if he sold the house, he would get approximately \$150 interest on the sale, whereas a three-bedroom apartment would cost \$90, so he sold his home. Now, instead of the home that would have cost him \$150 a month, he is now paying \$700 or \$800 on the apartment.

The point is we are talking about a situation today that could develop in the future when there is a low birth rate. What is happening now is that many young people are moving out of their homes and into apartments. You find 18-year-olds and 19-year-olds in their own homes. Often, they are single parents getting government subsidies. It is different from 20 or 30 years ago when people would stay with their families and grow up that way. Now they move into apartments.

This has also taken up some of the slack in the apartments. Twenty years from now, we will find that since the birth rate is low, there will be fewer and fewer people wanting these apartments. They even say that some of the low-grade housing, the cheaper housing will go unwanted because there will be no one to take it. These are problems in the future.

It seems to me rent control is a very short-term stopgap rather than long term. The government is not looking at the long term but at the short term. That is the problem why rent control has been two years, six years--every three years they put something new in the legislation to try to fix what they did. What the government needs to do is look at a long-term basis which, when I conclude in a few minutes, will be my basic suggestion.

One of the problems is that builders are fearful of doing anything at this time because the government keeps changing its promises. At first, they said rent control would be a stopgap because of the 10 per cent inflation. That was for two years. Then with inflation running at 10 per cent after some five years, they kept the maximum rent raise to only six per cent. They turned the screws by limiting financing costs a few years later. They also let stand decisions of the Supreme Court that a rent review commission need not pass through all costs incurred, but only must consider them.

The legislation was written in haste and was not meant to be the legalese it became. We find that certain costs will be allowed in one building and not in another. For example, if one landlord is a carpenter and he does the carpentry work, he may be allowed \$15 an hour for his work, whereas if another person happens to be a mortgage broker, if he uses an outside mortgage broker to arrange the financing, that cost will be allowed, but if he himself is the mortgage broker, then they say, "No, he is acting as a principal."

When inflation was lowered to four per cent or five per cent, the landlords were happy with six per cent. Then the boom was lowered when the four per cent ceiling came in, choking the landlord. Is it wrong if a landlord goes from \$12,000 to \$15,000 to \$16,000 or even to a \$20,000 return on \$200,000 over a four-year period? Is it wrong that we should allowed this?

The current rent control states that if the landlord is making X number of dollars and the person goes back to rent review each year, he is not allowed to make five cents more. If a person is making \$20,000 a year as a wage earner, he is allowed an increase. Whether it be two per cent, three per cent, five per cent or 10 per cent, this is considered acceptable, whereas for a landlord it is not.

We had apartments renting at more than \$750, which were above rent control. If I fixed up an apartment, I could make it into a luxury apartment with the understanding I would be able to take it out of rent control, but now I have become disillusioned. If the government was worried that \$750 was too low because of inflation, there are other methods it could have used.

All they have to do is leave the ceiling at \$750 and allow this ceiling to go up with inflation, or if the rent review decision on this index or whatever it is--I do not know the exact definition of this new type of index they are looking at--comes out to four per cent, five per cent or 4.2 per cent, all they had to do is allow the \$750 ceiling to go up by that amount, thereby keeping that person within the rent control region.

The tenants would never reach it, because rents at \$600, going up five per cent, go up to \$630 and rents at \$750, going up six per cent, go up by \$42. The lower people would never attain that level. The only way a person could go out of rent control is if someone did some large capital expenditures that give that person a larger increase. This is the type of thing that would seem to be more realistic and it should be viewed in this area. I do not know whether it has been discussed or looked at, but this seems to me a very simple solution to that aspect.

Now every building is being brought under rent control. I was involved in a building which was just completed in August 1985, and we were setting the rents in June. Realizing we wanted to get the units rented quickly, we put a low rent on them, and suddenly we are stuck with a figure that was made retroactive. This is completely unfair to a person who built a building recently under the guidelines in the legislation that was available then. Suddenly, in essence, he is being deceived. This is also unfair.

17:00

My last point in this field is a lack of understanding that the only buildings being built are either the few under the government subsidies I mentioned before or those that are being fully paid for by the government. It was explained in the paper yesterday how the city of Toronto spent approximately \$60,000 to buy approximately 148 units at Eglinton and Bathurst to try to keep old buildings, which need heavy repair, as low-cost housing for seniors. The government should not waste \$60,000 on buildings that have a life expectancy of 40 to 50 years. This is ludicrous. We know that nothing lasts forever, yet the government seems to be confused in this area.

I would like to bring in a few points. I do not know what brought it about, but it is something that also bothers me very greatly. We have two

types of legislation here. We have rent control under the Residential Tenancies Act and then we have the Landlord and Tenant Act. What happens constantly is that when we go to rent review, we see them always intermingling. What is happening at the commission is that the tenants are complaining about lack of heat and maybe a scratch on the wall, which is not in the realm of the Residential Tenancy Commission.

Whether it should or should not be is not the issue. The problems that bother me are the following:

If one is applying to rent control as it is right now to go above the current guideline of four per cent, or six per cent, as it was, if I were to ask for six per cent and the guideline was four per cent and if the commission would have allowed me seven per cent, the maximum I would be allowed would be the six per cent I asked for.

Quite often, the period between the application and the hearing is several months. Quite often in that period of time certain capital costs will be occurring, and one does not know exactly what they are going to be. If I have made my submissions and if things change, I am stuck with what I originally submitted--specifically, if I have to give 90 days' notice to the tenants.

As a simple example, our first increase in a particular building was in December 1984. The hearing was, I believe, in August 1985. In August 1984, I had to give 90 days' notice. The hearing was a year later. In that period of time, there were so many things that could have happened. If I were to ask the tenant again for six per cent and if I found during those six or eight months that I had to put on a new roof or had to make some capital expenditures, I would not be able to go back to the tenant and ask him for a larger increase, because I had already given him the piece of paper.

What is commonly done, and in my company we do it, is to send out an increase for 25 per cent, or sometimes for 100 per cent or even for 1,000 per cent, because the percentage means absolutely nothing. When we go before the board, it is what we prove, the figures we show: that is really what we are entitled to. If I anticipate that I need only seven per cent or eight per cent, the reason I do not try to be exact is that the hearings could be eight months later and I may find I really need 12 per cent, 15 per cent or 18 per cent. I myself know the figure is ludicrous.

My submission and thought here is that somehow the two acts should be combined in the sense that certain things should not be required. For example, what is the purpose of an increase notice? Automatically, everyone is taking the bottom ceiling of four per cent or whatever it is--say, four per cent. If that is the figure that is being used today, what is the purpose of a landlord going in and giving notice to the tenants of four per cent? Everyone knows it is going to be four per cent. I have even been in unfortunate situations where we forgot to give notice to a tenant. He automatically gave the increase because he knows that was the increase. If the landlord by accident gives the notice five days late, suddenly the tenant does not have to pay the increase.

Second, of course, is the same problem. If I need a higher increase, if I ask for 25 per cent--and I do not really know what I am going to get--I have already caused a problem. The tenant is now fearful. He says: "Wait a second. This landlord wants 25 per cent." He now hates me, and the only reason I put that figure in is simply that--I do not know the semantics of it; I do not know what the word would be in writing--it is just that the legislation is such that you have to dot your i's sometimes.

I am saying these forms should not be required. Second, all that should be required is notice that an increase above the minimum has been applied for at the tenancy commission. What it will be, we do not know. The problem, of course, is whether the commission says: "Wait a second. If you ask for a 25 per cent increase--and maybe you can get a 25 per cent increase--the tenant may not be able to afford 25 per cent and may want to move out." However, you do not find him moving out usually till the tenancy commission hearing happens.

Then the tenant moves out because he does not want to pay the high increase, and you cannot chase him. We cannot go chasing tenants left and right for \$100 or \$200; it is too expensive. The problem is that somehow we must simplify the form of the documentation.

Another one that is ludicrous in landlord and tenant relations is the eviction of a tenant. If a tenant does not pay his rent, the only method of getting him to pay is to give him what is called a form 4. It is called an eviction for nonpayment of rent. I do not necessarily want to evict a tenant simply because he did not pay the rent. I just want to say, "Pay your rent, and if you do not pay your rent, then I will do something."

However, you might say, "Why do you not just give him or her a note saying, 'Please pay your rent?'" Let us assume you do that and the tenant says, "Wait a second." I had a tenant call me today and say: "I am sorry, Mr. Shainhouse, I have difficulty and I cannot pay until the 14th of the month. Is that okay?" I said, "Okay, we will make it that you pay me on the 14th of the month."

When the 14th of the month comes and he does not pay his rent, he says, "I do not have the money." What do I do about it? If I then decide to evict him, I have to start from scratch. I have to give the form 4, and I now have to give him two weeks to pay. It is now the next month. The only way you can do it properly is to give him notice on the second day of the month. If he does not do anything, then you can take action. Otherwise, you lose one or two months.

There should be some type of notice that says, "If you do not pay, then we can get a judgement against you," or something of that nature, "or we can evict you," but not if you can take this piece of paper to skip out. Many people who have a lease and they wish to break it use this as an excuse to break the lease. If they do not pay their rent, you are in a catch-22 situation. If they do not pay the rent, you cannot collect it unless you start action. If you start action, the form gives them the right to break the lease. There is a problem with the form. Something must be done there.

The third point is security deposit. What happens is that a tenant leaves and his apartment is a disaster. Years ago, there used to be a security deposit. It was taken away because landlords abused it. I do not know how many landlords abused it--I am sure not very many--because most landlords in Toronto are large landlords. Probably 50 or 60 per cent of the apartments in Toronto are controlled by large conglomerates. Cadillac Fairview, which we were talking about before, owns 10 or 12 per cent of the whole population of apartment buildings. It is one of the largest but there are other large ones as well.

There must be some mechanism so that you can collect if a tenant destroys an apartment. You cannot always run after a person for \$500 or \$600, because the cost of going to court is phenomenal. In small claims court today, under the Landlord and Tenant Act, you have to sit in court the whole day to

be heard and quite often it is postponed for a second day. It is a phenomenal cost to landlords. Even the tenants have take time off work to sit in court for the matter. There must be some method for that.

Another thing is post-dated cheques. Why are they not allowed? What is wrong with them? Why should landlords have to chase things?

As I mentioned, an eviction proceeding right now is a court order. I do not know whether it is in Bill 51. I know there were some thoughts on improving the method without having to go to court. I do not have to go over it again; I am sure you are familiar with it. First, you have to give 14 days' notice. You then have to go to city hall and set up a court day which, if you are lucky, is seven days later.

You then go before a clerk. If the tenant objects, you go before a judge another week later. If the tenant is not ready, he can ask the judge to postpone it. If it is postponed, the judge will give him two or three weeks to put it before the court if he has had a problem. Once you get a judgement, you have to go back three days later to get the judgement, because it has to be signed by the clerk. You then have to serve it on the tenant and give him another seven days. You can then go to the sheriff seven days later and the sheriff gives him another seven days. You are talking about a phenomenal problem. It takes at least two months. It is almost ludicrous, and there are many tenants who know how to play this game.

If you are worried about the landlord who is gouging--and much of the legislation is produced because of these few--the landlord should also be protected against the few tenants who are abusing the system. Therefore, the bad tenants should be able to be evicted quickly.

I want to mention two more points. The hour is getting late and I am sure most things have been mentioned before. I am using this opportunity to get certain things off my chest.

One of the problems is that you cannot make separate deals with the tenant. I believe in Quebec you can make a new deal with the tenant; for example, if a tenant has a tiled floor and he wishes to upgrade it to a carpeted floor, or if he has a regular fridge and he wishes a frost-free fridge, currently you can go in and say: "I will tell you what. The carpet will cost \$500 and the new fridge will cost \$1,000. If you give me \$15 extra a month, I will pay for them and you can have them."

Currently, this is not allowed. A landlord cannot make any deal with the tenant and yet the tenant can say, "I will move in if you paint my apartment," and all this type of scenario. There must surely be some method for a tenant to be able to upgrade himself with a landlord but, unfortunately, there is no mechanism under this current legislation.

17:10

The second thing is that there must be some way for landlords to be able to obtain some value for rents on the current value of an apartment building. For example, there are a number of people who built apartments 20 years ago and are stuck with renting two-bedroom units at \$350 when the current average rate in Toronto is \$450 or \$500. There should be some mechanism for the landlord to be able to realize at least some return on the increased value. How exactly, I do not know, but there should be some way to allow it.

One of the problems caused by this is that we talk about an across-the-board percentage increase. When you talk about a six per cent increase, I have a building where the average rent is \$700. Six per cent of \$700 is \$42 a month. I have another building where the average rent is \$300, and six per cent is \$18. My costs for heating, hydro and water are the same. My costs for maintenance are probably a little higher in the first building because the tenants are paying a little higher rent and get a little better standard of maintenance.

I am getting \$42 on one and \$18 on the other. I am getting \$18 on the second building, but it does not pay. It is so tight I am afraid to do anything. On the one where I am getting \$42, it is much easier because there is a bigger leeway. There must be some mechanism where you can say, "Six per cent is fair for those who are getting the average rent in this city, but those who are getting 30 per cent above the average should get a little bit less than six per cent and those who are getting 20 per cent or 30 per cent below the average should be entitled to eight or nine per cent." Somehow you need a dollar figure. There has to be some fair gain.

I would be happy with the higher-rent apartments to get six or seven per cent because it makes it much easier for me to run a much more efficient building, but the buildings that are below average are the ones that are getting killed. If you go to rent review every year, you have those tenants swear at you, stare at you, call you names and hate you.

Many landlords, absentee landlords who have management companies that do all the work, do not like it. They do not want their names found out in the paper as the guys going to rent review. It is really unpleasant. Many of these people have saved all their lives to make money. They are small landlords who have saved \$100,000, \$150,000 or \$200,000. By then, the brother, the sister, the children see you have money and are buying a building. Having your name dragged into court is really unpleasant. To make it difficult for the few seems to me unfair.

To conclude, obviously my views are a landlord's type of scenario. I should point out that I am living in an apartment where I am paying \$450 a month. I laugh because my cousin is paying more in taxes on her house. It is unfair that I, who could afford much more, technically have people subsidizing me. This is one of the problems. People have talked about the person who is able to afford more. I admit I am, in essence, subsidized by those who should be in my apartment. It is not fair, but it is the system. I took over the apartment from my wife who could not afford the \$450. She was paying 60 per cent of her income for the apartment. I just moved into it. In time, I will move into a home.

This is one of the inequities that exist. I feel very strongly that rent control must be removed without question; however, I understand that taking it away tomorrow would be ludicrous, ridiculous and unfair. The government should take some stand, whether it be in five, six or seven years, and say to the landlord: "We are going to remove rent controls in five years. In 1990 or 1991 they will be gone, but rents will be no more than three or four per cent in the next five years. That is it. There will be no increase; nothing. Whatever you do you will get later on."

This would give an incentive to the landlord to realize that he will be able to plan. You do not get housing or new apartments tomorrow. It takes a couple of years of planning. I think this is something the government realizes is a problem. It would also give the government the opportunity to take money

that is being somehow misappropriated to me, because I am being subsidized, to give direct subsidies to the people on mother's allowance, the people on welfare, the people who are unemployed, the seniors who need the money.

It would give the government a number of years to do that, even to the extent that the landlord could be taxed. They could say to the landlord, "We are going to tax you two per cent of your income to go towards some type of fund." I am sure the landlords, if they knew it at the time, would be glad to get out of the hassle. The government is spending hundreds of millions on the rent control loss of revenue from flipping buildings. Every time they sell a building, there is land transfer tax. All these things are lost. Every time a person says to me, "Sell the building," I ask: "What for? I have to pay tax, I cannot replace it, I cannot buy another one. It is terrible."

If the government got rid of rent controls and set up a five-year program where it could keep the rents at three per cent, that would suit the landlords. They could add a tax of one or two per cent to the landlords to build up a slush fund to aid the seniors, to aid these people, given a long-term program. I think you would find everyone would be happy and the government would get itself out of the quagmire it is in right now.

The Acting Chairman: Thank you for an exciting presentation.

Mr. Bernier: It was very exciting.

The Acting Chairman: Yes, very exciting. I am excited, we are all excited. You may want to take a look at the work my pal Councillor Campbell did on the Metro singles task force. You will be interested in what is happening to singles in Metro today. That is a piece of free information. It is a Metro Toronto report on housing for singles. The chairman of that committee was Councillor Campbell. It is an interesting document.

Mr. Shainhouse: I am interested.

Mr. Taylor: What is the point?

The Acting Chairman: He made some remarks about singles. The point is that singles are having a hard time getting housing and in fact are not leaving home, because they cannot get it, particularly in Scarborough.

Mr. Shainhouse: They are not having as much trouble now. I did not mention it, but I managed buildings in London, Ontario. I did not have any problems with it. London is like this, a pie shape. We had this part of the city. What happened in London was that over the years they built tons and tons. Then they stopped. We were in the outskirts. The inside got filled.

We have been seeing a 10 per cent to 15 per cent vacancy rate during the past 10 years. We cannot get rid of the vacancy. Nobody wants to go over there. It is 10 minutes from downtown, but for people in London, that is 10 minutes from downtown. We actually try to bring people in from Toronto. We wrote some of the people in Toronto. We said: "We have 20 empty apartments every day. Take them."

Hon. Mr. Curling: Nobody wants to go to London.

Mr. Shainhouse: Who wants to go to London? We did have people come from Toronto. We had some ladies and their children move to London. The people in London started screaming, "How can you bring in people?" This is one of the problems.

The Acting Chairman: Now that London has a Premier, people will want to go there, I gather.

Mr. Shainhouse: Our Premier. We have thought about him.

The Acting Chairman: I am not being smart about this singles stuff. I think you will be interested in this stuff. Are there any other questions?

Mr. Taylor: You were talking about Toronto?

The Acting Chairman: I was talking about Metro.

Mr. Shainhouse: Toronto is the problem. Everybody is moving into Toronto. Where do you find people moving? Downtown Toronto has cheap housing. Ontario should be expanding.

The Acting Chairman: Actually, it is not true that they are moving into Metro. Metro's population is not going up. They are moving into the area around Metro.

Mr. Shainhouse: We want that. You do not want everybody living in Toronto.

The Acting Chairman: Certainly not.

Mr. Shainhouse: That is the problem. You do not find any new cities being developed here. What new city is being developed in Ontario? Everyone is coming to Toronto. That is one of the problems.

The Acting Chairman: Your remarks about the Landlord and Tenant Act will not fall on deaf ears. The ministry has made a commitment through the Rental Housing Advisory Committee to review the Landlord and Tenant Act, and I am sure the remarks you made about the Landlord and Tenant Act can be transported to that deliberation.

Mr. Shainhouse: I do not know whether you are familiar with the thing I mentioned about the Supreme Court of Canada?

The Acting Chairman: Yes, I am.

Mr. Shainhouse: The commissioners are telling me it was unheard of; literally, they do not have to accept any costs they do not want to. That is the act, because the wording was not made clear. I hope the new legislation is very specific. I think that is an improvement, a good idea.

The Acting Chairman: This bill does not deal much with those kinds of Landlord and Tenant Act matters.

Mr. Shainhouse: Is this going to be passed in a while?

The Acting Chairman: What will happen is that next week we are going to have some review and then we will be doing clause-by-clause. That means we will go over every word in this thing, vote and see what happens.

Mr. Shainhouse: How are they going to handle this 1985 scenario? You will be going only a year and a half back to rent increases.

The Acting Chairman: If that stays in the bill, it will be handled however it is handled.

We will break until seven o'clock.

Mr. Shainhouse: I am not the last one?

The Acting Chairman: No, there are five more tonight.

The committee recessed at 5:20 p.m.

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STANDING COMMITTEE ON RESOURCES DEVELOPMENT

RESIDENTIAL RENT REGULATION ACT

THURSDAY, OCTOBER 2, 1986

Evening Sitting



STANDING COMMITTEE ON RESOURCES DEVELOPMENT

CHAIRMAN: Laughren, F. (Nickel Belt NDP)

VICE-CHAIRMAN: Ramsay, D. (Timiskaming NDP)

Bernier, L. (Kenora PC)

Cordiano, J. (Downsview L)

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Knight, D. S. (Halton-Burlington L)

Pierce, F. J. (Rainy River PC)

Reville, D. (Riverdale NDP)

Smith, E. J. (London South L)

Stevenson, K. R. (Durham-York PC)

Taylor, J. A. (Prince Edward-Lennox PC)

Substitutions:

Caplan, E. (Oriole L) for Mr. Knight

Gordon, J. K. (Sudbury PC) for Mr. Pierce

McKessock, R. (Grey L) for Mr. Epp

Ward, C. C. (Wentworth North L) for Mr. Cordiano

Also taking part:

Shymko, Y. R. (High Park-Swansea PC)

Clerk: Decker, T.

Staff:

Richmond, J. M., Research Officer, Legislative Research Service

Witnesses:

Individual Presentation:

Bobak, R.

From the Ministry of Housing:

Peters, F. H., Director, Rent Review Division

Lavery, P., Director, Rent Review Policy Branch

From the Burnview Place Tenants' Association:

Wilson, L., President

From the Jane-Exbury Tenants Association:

Ewing, R., Co-Chairman

From the High Park Tenants' Association:

Fleet, D., First Vice-Chairperson

Individual Presentation:

Martin, D., Alderman, Ward 6, City of Toronto

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON RESOURCES DEVELOPMENT

Thursday, October 2, 1986

The committee resumed at 7:13 p.m. in room 228.

RESIDENTIAL RENT REGULATION ACT
(continued)

Consideration of Bill 51, An Act to provide for the Regulation of Rents charged for Rental Units in Residential Complexes.

The Acting Chairman (Mr. Reville): The committee is now in session. The first speaker for the last evening of our public hearings is Ronan Bobak.

RONAN BOBAK

Mr. Bobak: Ladies and gentlemen of the committee, it is an honour for me to be able to express my opinions regarding Bill 51 before you tonight.

It is regrettable that the advocates of rent control have targeted the owners of residential rental property as open prey who, for the past decade, have been haggling about how much more blood they can squeeze out of tenants.

Rent control and its subsequent offshoots, instigated and strengthened by the New Democratic Party through minority governments, has not helped create any affordable housing; it has stopped ordinary market development in its track. It has caused a dwindling supply and has led to the situation we have today, in which builders and investors have all but abandoned the rental market. However, they are visibly active in other areas, such as the construction of high-rise condominiums, which are everywhere and which cater to all market ranges and provide the benefits of private ownership to purchasers and of profit to developers.

This question of whether to impose controls seems to turn on that nebulous word "affordability." The legislation may assume that every tenant is a helpless, destitute victim who needs protection as every landowner is a powerful, wealthy tyrant who requires discipline. However, I think these generalizations are inaccurate. I believe the government has an obligation to provide low-cost, or even temporarily free, shelter to those people in demonstrated need. No one can argue with that.

Yet a great number of tenants certainly cannot be categorized as being needy or destitute. This legislated social policy of rent control is charity by force. It is indiscriminate as to who the recipients are. Whether or not he needs it, every tenant benefits. Whether or not he likes it, every rental residential landowner pays for it.

What are these costs? How much has the rent control bureaucracy with all its hangers-on cost the province and the taxpaying public, which is made up of both tenants and landlords? What do we have to show for it? More regulations.

If the rent registry comes to be, it should include not only the income the owner is receiving per unit, it should also include the incomes of all the usual tenants residing in each unit, this information to be revised yearly

with official documentation such as income tax slips. The squeals of self-indignation and invasion of privacy by tenants would certainly be outweighed by the obvious benefits in that the registry would provide on a provincial basis--all the way from rent-controlled duplexes in Mr. Reville's downtown Toronto riding to, I assume, rent-controlled igloos on Hudson Bay--the crucial answer to the question, how much of its income is every tenant household in this province spending on housing?

Perhaps then, when we have facts on affordability and its relation to income, we can determine that certain tenants in certain regions do require the social assistance that is provided to them through rent controls. Demonstrated need should be a determining factor, not across-the-board generalizations.

Rent control legislation ought to be dismantled and phased out over a period of years while being accompanied by a policy of rental assistance to those in demonstrated need of it. The government has failed those people who have no choice but to rent. These are the people who should be the prime concern of Mr. Curling's ministry, not the middle-class tenants who choose to rent and to uphold their undervalued status quo.

Why is the affordability of housing a matter that usually connotes rental accommodation? What is the ministry doing to provide affordable private ownership to the people of Ontario, where owners can obtain their own property, benefit from the equity of the open market and become more self-supportive taxpayers? Is private ownership a political and economic threat to the socialism of the NDP? Is it more politically expedient to espouse the glories of co-ops and public housing as the master solution rather than to place the emphasis on assisting those who need it and encouraging private ownership as an attractive goal to the people?

The tenants' umbrella group summary that the private market is unable to meet the housing needs of Ontario is patently ridiculous, because the private, small business sector is the guts that makes Ontario work in any sort of market. Publicly owned housing is part of the solution and should be available to all those who need it, but it should not be regarded as any sort of major policy shift at all.

I feel Bill 51 is only a stopgap measure, but in the absence of any other practical and foreseeable alternatives, I agree that it ought to be passed intact to its original landlord and tenant agreement. Thank you.

19:20

Mr. Taylor: Are you a landlord, a tenant or both?

Mr. Bobak: I am a landlord.

Mr. Taylor: What size of building do you have?

Mr. Bobak: A duplex, which I live in.

Mr. Taylor: So there are just two units; you live in one and you rent out the other. I have some questions, but I do not think they follow up. I was very interested in what Mr. Bobak had to say because it is a theme we have heard--

Mr. Bobak: I cannot say I represent massive developers and builders.

I represent a cross-section of a small, single-family type of person who may own a house and rent part of it. I know many other people who are in that position. They are scared of renting because they have had bad experiences. They have a vacant space that could be used but will not be if it is in their power not to rent it. I do not represent any major interests, but it is certainly disappointing.

Mr. Taylor: As I was saying, we have heard this theme before in varying degrees. We have heard the other side of the picture from tenant groups. Both groups are represented on the Rent Review Advisory Committee and it causes a dilemma for this committee to try to evaluate the culmination of the RRAC's work as manifested in the draft legislation and, at the same time, to hear individual members of the RRAC come forward and take different views to those of the RRAC. As the minister said, it is a very delicate problem.

What I hear you saying--please correct me if I am wrong--is that within the scheme of rent control there are not sufficient market forces permitted to develop a market rent for accommodation. Do I hear you saying that? I do not want to put words into your mouth. I will explain. We have heard that rent controls alone do not determine whether a landlord can make a living from being in the rental business. An economic return can still be obtained under the umbrella of rent control. I surmise you are saying, and you can elucidate, that you do not subscribe to that point of view.

Mr. Bobak: I do not know whether anyone knows if rent control is or is not the cause or part of the cause or how much a part of the cause it is. I believe it is part of the cause that prevents people from wanting to take a risk in providing a supply. The question of affordability and supply is a matter that is part of it but not all of it. A lot of people can afford to upscale their housing requirements, but they do not do so because it is more economically feasible for them to stay put and uphold their rights instead of participating a little more in upgrading themselves, buying property or whatever, to free up available units.

Mr. Taylor: Could the ministry assist me in regard to a point that was raised by Mr. Bobak about the potential for expansion of the principal purpose of the rent registry? I am wondering what potential there might be if you had on computer every unit in the province with the landlord and owner and the financial information, whether there is a danger of that information being augmented, as the witness suggests, on the part of the tenant.

I am also thinking of privacy of information, freedom of information and so on. Has there been any thought given to that in terms of that vehicle, that system, under the federal freedom of information legislation?

Mr. Peters: There have been two questions asked. The first one related to whether there has been any thought or whether there is any provision within Bill 51 to solicit and record information about tenants and/or their financial position or income. Clearly, there is no such provision in Bill 51, nor is there any attempt to do so.

In answer to the other question, about freedom of information and security, that is covered in subsection 54(1) of the act. The intent of the registry is simply to convey and to make available to an individual tenant the rental history of that unit. It is not meant to provide information that is not relevant to that. As you will know, in section 54 the regulation will circumscribe the circumstances under which that information will be given.

Mr. Taylor: I hear you saying the details will be worked out by regulation.

Mr. Peters: Yes.

Mr. Taylor: Presumably, the information will not be able to be obtained for reasons other than determining what the previous tenant paid for the premises.

Mr. Peters: The information will be limited to the legal maximum rent.

The Acting Chairman: Plus any rent review order that is relevant.

Mr. Taylor: We are in 1986, we have gone beyond 1984, but I still have that Big Brother feeling in the back of my head now. I may be oversensitive.

The Acting Chairman: Big Brother is two years bigger.

Mr. Taylor: Yes, that is right; he is growing. I am always a little oversensitive about the outreach of government in terms of information that has a tendency to build and then, as history goes on, to be released to another person. We have seen that with the social insurance number and income tax. You cannot do anything now unless you have a number. Maybe when people are born after this, they will have to have a big Canada Packers stamp on their backsides with their number and that will be registered and take you through life. I point it out because I wonder about the potential for abuse.

Mr. McKessock: Another job for the bureaucrats.

Mr. Bobak: As the system is already proposed and the rent registry system and the bureaucrats will be ensconced shortly, I do not see that it is going to be very difficult for computer operators to keypunch in several other additional items which will perhaps clear up this unfocused affordability question. Tenants may be overpaying or underpaying; who knows for sure? The tenants' groups say one thing and landlords' groups will say another thing.

I cannot see the excuse of Big Brother being modified to tenants, but it will be applied to the landlords. The landlord's income information for a unit or building, or a number of buildings, will be input. Granted, that is not the total amount of anything, but it is a partial amount. You are not asking all the tenants' information except their total income, which they apply to their rent calculation as a percentage, to see whether they are paying 25 per cent, 30, 40, 50, 10 per cent or what have you.

If affordability is this nebulous concept that is based on percentage of income, why do we not get the people's income? They should have no complaints about it, since it is going to prove their case that they are paying way too much and rent controls are justified. Conversely, there could be an alternative effect if not that many people are paying a large percentage of their income. Then maybe we can all face a possible fact that rent control is a partial illusion; it helps some people and it may not help the ones it was intended to help. It was just a suggestion.

19:30

Mr. Taylor: On an application to rent a premise or an apartment, there is provision for some of that type of thing anyway, is there not?

Mr. Bobak: I do not see what reason that would give a potential landlord from--that is meaningless. For tenants to benefit from the social policy of rent control, they must have an affordability problem. Conversely, maybe they do not and just anybody who rents gets this benefit, no matter what his social position is in terms of income or need.

Mr. Taylor: That is the way it works now, is it not?

Mr. Bobak: Exactly. That is patently unfair. There is no proof, there are no numbers and there is no blame. The NDP says one thing and the Progressive Conservatives and the Liberals follow up by saying, "Yes, we think so," but I do not think anybody knows for sure.

I do not think anybody will want to comment or want to complain, but the people who need help should get it. They are not getting it. Why are they not? I do not know.

The people who are living in the present affordable accommodation, who have jobs, etc., and who are established in some fashion, do not usually take a chance on moving. They do not want to give up the benefits that rent control has bestowed upon them at the expense of a landlord or whoever else it may be.

That is one of the major reasons that the administration of all the policies of rent control and all its offshoots--limiting condominium conversions, protecting the supply of housing, this, that and the other--stems from one of the main sources, which is the lack of supply, the lack of people to move out and to create an upswing in the re-use of present residences.

Mr. Taylor: I suppose the difference between an established market rent, if you could establish a market rent, and the rent that one was paying to live in a rent-controlled apartment could be subject to taxation as a benefit. I could see a government motivation for having the information you are talking about.

Mr. Bobak: I think we should just then go all out and have a rent review for all commercial buildings and office space. I suppose that is unfair to a lot of people. I guess it would take a party majority and some royal assent to expropriate all rental property in the province and put it under the ministry of social housing, or what have you. Then we would all just be property managers and tenants alike, and there would be no more need for this massive confrontation.

Mr. Taylor: The government could not expropriate it because there is just not enough money in the system. It could confiscate it.

Mr. Bobak: What is money at this point?

The Acting Chairman: Thank you, Mr. Taylor, Mr. Bobak. Is Mr. Ewing here from the Jane-Exbury Tenants Association? No. Is David Fleet here from the High Park Tenants' Association? No. Is Lia Wilson here?

Mrs. Wilson: Yes.

The Acting Chairman: Would you like to make your presentation now? Thank you. That would help us out.

BURNVIEW PLACE TENANTS' ASSOCIATION

Mrs. Wilson: Good evening, Mr. Chairman and members of the committee. I am Lia Wilson and I am the president of the Burnview Place Tenants' Association in Scarborough.

After days of sitting through these hearings and listening to many lengthy and very difficult papers, I will keep my brief as brief as possible and stress the points that have been repeated most often and are of the gravest concern to me, as they should be to all of you as legislators, because some of these areas have the most potential for error and injustice to occur. Unfortunate precedents could be established in some of these areas, which the government would live to regret. >

I have brought tonight five pages of photographs of our building and I would like the members of this legislative committee to have a look at them, since they represent, in part, some of the problems we have had in our building. We have had to initiate numerous court actions that have resulted in two Divisional Court hearings. I am very pleased to say we won both of them; nevertheless, we were forced to take these actions.

A law that is designed deliberately to confuse and obfuscate simple issues and basic needs is a law designed to erode the fundamental principles of justice guaranteed by the Charter of Rights. Those who design such a law and implement its passage through our Legislature are guilty of an impeachable offence.

The Minister of Housing (Mr. Curling) says that Bill 51, if passed, will save the tenants as much as \$21 million each year. This statement was in the Toronto Star on September 19, 1986. Tenant spokesmen say that Bill 51 will transfer \$265 million annually from tenants to landlords in Toronto alone, in addition to the average rent increases. If we calculate the difference between these two claims, it appears that provision has been made for an enormous transfer of income from tenants to landlords in Bill 51.

Bill Grenier, co-chairman of the Rent Review Advisory Committee and president of the Fair Rental Policy Organization of Ontario, speculates on the possibility of "some forms of construction emanating from the tenant-to-landlord transfer of income." To facilitate this transfer of income, his organization of landlords and developers has fathered twins in the form of the residential complex cost index and the building operating cost index to help the landlords attain rent hikes using a fair and scientific formula.

Ken Hale, tenant lawyer and expert in landlord-and-tenant law states: "Once the weighing and the averaging is over, the RCCI/BOCI formula boils down to a very simple and unfair conclusion: pay the landlord for his costs and then pay him two per cent more a year from your rent." Our impression is that the confusion of the formula serves only to obscure this this basic unfairness.

19:40

Mr. Hale's colleague, Mr. Holt, elaborated on this subject by stating that the landlords are motivated to make the biggest bucks possible. They have no sense of social responsibility; they have only a personal financial responsibility. We have to rely on our government's sense of social responsibility to fulfil the promises made to tenants when they were canvassing to be elected. By flowing enormous sums of money to landlords who

have no sense of social responsibility, the minister has abdicated his legislative duty to the people of Ontario. By formulating a bill that legitimizes legal rents, the minister has demonstrated the direction in which he is prepared to go.

In his opening remarks to the Legislature on June 5, the minister stresses that this legislation is historically significant for the manner in which it came to be. Numerous opinions have already been expressed stating that the ideas and decisions made were not representative of tenant groups or of tenants as a whole; they were the opinions of 18 individual people who felt intimidated by the minister, and they felt they were compelled to reach this historic accord.

To those of you who would support Bill 51, with its convoluted form and content, and seek its passage, I say that time alone will deliver your just reward. The time I speak of is election time.

The Acting Chairman: Thank you, Ms. Wilson. I do not think you left any doubt about how you feel. Obviously, you have made your point.

Mrs. Wilson: There are two other small papers I would like to pass around to this committee.

Mr. Taylor: Can you identify the building again? I was quite impressed with the photographs. I do not want to appear extravagant in my language, but the conditions appear despicable. Can you identify the address of this building and maybe give us an idea of the range of rents or something like that?

Mrs. Wilson: Are you Mr. Taylor?

Mr. Taylor: Yes, I am.

Mrs. Wilson: Yes, Mr. Taylor, I would be glad to. This building is situated in Scarborough on 3201 Lawrence Avenue East. It is now approximately 20 years old. It was a beautiful, prestigious building in its time, when it was first built and for years afterward. It won several awards, including the centennial award in Scarborough, for its design and for its imposing view, the way it was constructed and the facilities we had.

During the course of about 12 to 14 years, the owners allowed it to run down and to become probably the closest thing to a slum that Scarborough has.

Mr. Taylor: The same owners?

Mrs. Wilson: No. The owners who built it were Harley Smith Construction. They sold it in--I think the deal started in 1977 and was completed in 1978. It was sold to a couple called Max and Mary Diamond. Late in 1978, they acquired a numbered company for a partner. Within this context of a numbered company, there was also a management company called Cando Property Management. This company is owned by Harry Berman. He is also a partner in this company. He actually took over the management of this building in the fall of 1981.

It was at this point that I and a group of tenants who simply could not tolerate the neglect any more tried to enlist the help of property standards, the mayor's office, other elected officials and our aldermen. We failed

miserably. They said nothing or very little could be done because of the standards and laws they had at that time.

I decided to start documenting all the problems in the building. The simple reason for this was that they were deliberate. There was no attempt to make improvements. They got rent increases. He went to rent review in the second year, in 1982. He got equalization and he got rent increases anywhere from 10 per cent to 70 per cent. Still, this was not enough. It kept up. It was almost as though we were being punished for something.

We decided that, no, we had to act and the only place we could get action was in the courts. He would not discuss anything with us. We decided the place to go was the courts. As a result, action in county court took place in October 1984. It took two weeks, by the way. Judge Cartwright was the judge who heard this case. We won our case and we were awarded--I believe one of the documents I am passing around states how much--about \$40,000 plus costs.

At this time, the landlords decided to appeal the case. I am afraid I do not have it with me, but just last August 27 and 28, it was heard in Divisional Court and was upheld in its entirety. I have that decision, but I am afraid I did not bring it. That is the case. We have been in the courts with this new landlord more times than I care to think about, and twice in Divisional Court. In the first instance, I was the one he tried to evict. Of course, he failed. I took him to Divisional Court and I won my case. By the way, I set three precedents there.

Mr. Taylor: Can you indicate what a typical rent would be for a one-bedroom, a two-bedroom and a three-bedroom unit?

Ms. Wilson: I did not bring all that information, but I believe a one-bedroom unit is approximately \$400. That would also have one parking spot.

Interjection: It is \$440 now.

Mrs. Wilson: Oh, it is \$440 now.

Mr. Taylor: That is for a one-bedroom unit.

Mrs. Wilson: Yes.

Mr. Taylor: What would a two-bedroom unit be?

Mrs. Wilson: It is about \$513.

Mr. Taylor: Do you have three-bedroom units there?

Mrs. Wilson: Yes. Can you tell us how much a three-bedroom unit is?

Interjection: It is \$585.

Mrs. Wilson: It is \$585. These are not depressed rents.

Mr. Taylor: This would be a six- or seven-storey building.

Mrs. Wilson: It is 13. As I say, these are not depressed rents, because for what we are paying him, we are getting very little in return.

Ms. Caplan: Are you aware that under Bill 51 he would not be entitled to any rent increase, even the guideline, that the minister could withhold it because of the state of the building?

Ms. Wilson: I am aware of some sort of provision there.

Ms. Caplan: Can the ministry staff clarify how that provision kicks in and how it would affect this building? What is the section of the act? I have been looking for it.

Mr. Laverty: It is subsections 15(6) and 15(7).

Ms. Caplan: The part that I find so offensive is that in that state the owner was able to go to rent review and receive increases. Section 15 says that if a building does not comply with the provincial standard, no increase, not even the guideline, will be awarded to that landlord. Therefore, you would not have the kind of situation where you went to the city and were unable to get action. Your rent would not increase at all and that building would have to be repaired under this bill.

19:50

Mrs. Wilson: I am aware of the possibility of this sort of provision. I am not enamoured of it. When we went to rent review in 1982, he received very large increases and they were supposed to repair the whole building and maintain it. This they did not do.

Ms. Caplan: Which is the end of the old act. After that time, annually they were automatically entitled to the guideline without going to rent review. Further, there was no protection for tenants in the situation you have just described. Under this act, if the landlord does not show good faith, he will not get any future increases until he does the work he is supposed to do and maintains the building to provincial standards; so you would have that kind of recourse and protection. It would seem to me that provision would be very important for people in your situation, particularly if--

Mrs. Wilson: I will say it appears to have some merit.

Ms. Caplan: But they get nothing.

Mrs. Wilson: Yes. As I said, it appears to have some merit. I am possibly not familiar with Bill 51 to the extent you are. I would need a lot more clarification and a lot more assurances before I would accept this as fact.

The municipalities in this type of situation also have a lot to do with it, because he kept getting extensions on work orders. I do not know whether something like this could come about under this present section of Bill 51. I am not at all sure of this. I do not know how it works.

The Acting Chairman: The council of your municipality would have to find that the building was not in substantial compliance by sending an inspector to look at the standards. The minister would have the right to take various kinds of actions. He might not. I do not know. It says he may do that.

Mrs. Wilson: Yes. I do not know either. I feel we took the proper action. I feel the way to act is in court. When a landlord accepts rent from a client, that is a contract. When he continues to violate that contract, the

only place to decide this is in a court of law. I do not see any provision in Bill 51 for correcting a contract.

Is Mr. Curling not available today?

Ms. Caplan: The ministry staff is here.

The Acting Chairman: We have ministry officials here.

Mrs. Wilson: No, I meant Mr. Curling.

Ms. Caplan: He was here all afternoon.

Mrs. Wilson: I had a question for him, but maybe I will ask it.

Ms. Caplan: Would you like to ask your question?

Mrs. Wilson: I would like to ask this question. What provisions have been made in Bill 51 to deal with a landlord who withdraws services that are included in rent and continues to charge the same rent, continues to get increases, but will not refund any moneys to the tenants and will not reinstate the facilities or the amenities he has withdrawn?

I might add, in the case of our building, we had a penthouse lounge that was withdrawn from us with the help of the city of Scarborough--and our alderman, by the way--and now he has an additional penthouse apartment for which he gets approximately \$600 a month; he will also get increases on that, and we continue to pay for it.

The Acting Chairman: Dr. Laverty will direct your attention towards section 56, I expect.

Dr. Laverty: No. The appropriate section where there is a withdrawal of services would be that the tenant can make an application under section 91, and under subsection 4(2) they can do so where there is a change in the standard and maintenance of repair or in the services and facilities, provided it affects a rental unit. You could make an application to rent review, they can consider your case and order a rent reduction if the services have indeed been reduced.

Ms. Caplan: The tenant can initiate the application to rent review on that basis.

Mrs. Wilson: Yes. You would have to be very familiar with Bill 51, the process of law and a lot of other things to do this.

Ms. Caplan: I think this is important too. That is at the beginning under the education section. For the first time--where is that? Section 5?

Dr. Laverty: Clause 11(a).

Ms. Caplan: Clause 11(a) says, "The minister shall provide information and advice to the public on all residential tenancy matters, including referral where appropriate to social or community services and public housing agencies." That means--it is the technical terminology--the minister has an obligation to make sure tenants are fully aware of their rights, how the bill applies and what protections are there for them. This is the first time the act states he has this obligation.

In your case, as a sophisticated, well-organized and obviously very active tenant association and group, you will avail yourself of all that information in this education component and very quickly assert that your rights are protected. The difficulty in the past was that there were many tenants, particularly in smaller buildings or in buildings where they were not organized, who did not know their rights.

Mrs. Wilson: Low-income buildings too, or lower-income buildings.

Ms. Caplan: Yes, for sure. This says there will be an educational opportunity so they will know what is there to protect them. That is in the act as something the minister has the responsibility to do.

Mrs. Wilson: What has the minister put in the act to punish the landlord for attempting to do this cutie, for pulling this?

Ms. Caplan: Which cutie?

Mrs. Wilson: What I just described: removing or taking away facilities and charging for them. This has been going on for several years. What does this act have to punish the landlord?

Ms. Caplan: The section to which Dr. Lavery referred will allow a rent review application by the tenant to reduce the rent.

Mrs. Wilson: To reduce the rent?

Ms. Caplan: Yes.

Mrs. Wilson: For the theft, what do we have? What kind of punishment do we have for the perpetrated theft?

Ms. Caplan: What theft?

Mrs. Wilson: The theft the landlord does when he takes away an amenity and continues to charge rent.

Ms. Caplan: The rent would be lowered.

Mrs. Wilson: What kind of punishment do we have for the landlord?

Ms. Caplan: He would have his revenue reduced.

Mrs. Wilson: You call that a punishment? I am asking for a punishment.

Ms. Caplan: What would you suggest?

Mrs. Wilson: Jail, because this is repeated over and over in hundreds of buildings in Ontario and all across Canada. These people are getting away with everything--well, nothing short of murder. They may even have done that. They wrecked my car. In the first year that I started the association, they wrecked my car to the tune of \$3,200, but I could not prove it. Mine was the only car that got wrecked.

I wonder if this bill is trying to make us believe that this is no longer going to happen, that tenants and landlords are going to be really cute, palsy-walsy. We are going to negotiate increases, and this building

operating cost index and residential complex cost index will hold hands with us and all helping each other.

Ms. Caplan: It is my view that this bill hits really hard at the bad landlords. It means they cannot increase their rents. Rents can be reduced. Those who are charging illegal rents will have them rolled back and will have to pay them back. But it really hits hard at the bad landlords. There are many out there who deserve to be hit hard, but I believe you are best off to hit them in their pocketbook, where it really hurts.

Mrs. Wilson: Are you a lawyer, Mrs. Caplan?

Ms. Caplan: No, I am not.

Mrs. Wilson: Neither am I, but I have learned a little while I have been on this trip with our landlord for nine years now. I have learned something about the law. One of the things I have learned is that we have a statute of limitations of six years in this country to recoup a theft or to punish someone. How come, all of a sudden, we have in Bill 51 a one-year limitation on collecting and amnesty for the rest? Any theft that has been perpetrated for more than a year, let us say, for four, five, six years or more, receives amnesty.

Landlords have socked away millions, probably billions of dollars, and we will not be able to recoup this money. That is what the act says. Why has this happened? What special privileges do landlords have in this country? Why not give these privileges to bank robbers, to rapists, to anyone who steals?

20:00

Ms. Caplan: I have some difficulty with that provision, but we know for a fact that many buildings changed hands, particularly over the past five years. The administrative problems in trying to find out who was the owner at the time, taking it through the courts and trying to go back any further than this would cost the taxpayers in an army of bureaucrats.

We have tried to set a date, which was the recommendation of the Rent Review Advisory Committee. Whenever you set a date, not everyone will agree with it, but it is very hard to pinpoint the appropriate date and how many sales there were before then and how much difficulty you will have in trying to find out who the villain was. What you want to do is identify the villain.

Mrs. Wilson: It would be very easy.

Ms. Caplan: The problem is, it is not easy.

Mrs. Wilson: I would be willing to take it on for the government.

The Acting Chairman: Sold.

Mr. Taylor: That is the best offer we will get.

Mrs. Wilson: And at a very reasonable cost.

Mr. McKessock: Did you say the building was only 20 years old?

Mrs. Wilson: Not quite. I believe it was completed in centennial year.

Mr. McKessock: Looking at the pictures, it is hard to believe it is not older than that. The home I live in is more than 100 years old and it is not quite that bad.

Mrs. Wilson: I would like to say one thing to this group of people. I feel very badly that I could not bring the book of pictures I gave Judge Cartwright in the initial trial in October 1984. It was a documentation of approximately two years running of all the things we had to endure, with which no one would help us, not the police, the borough of Scarborough, property standards, our legislators, our aldermen--no one. This book exists, and I will try my best to get it from the Supreme Court. I would like to bring it to this assembly when it starts making decisions.

Mr. Taylor: When were the pictures taken?

Mrs. Wilson: This year.

Mr. Taylor: These are current pictures.

Mrs. Wilson: These are current; you should see the other ones.

Mr. McKessock: As I mentioned, it is hard for me to believe the building is in such bad shape. How long have you lived in the building?

Mrs. Wilson: Nine years.

Mr. McKessock: Has the owner been subjected to any unusually destructive tenants during the past 20 years?

Mrs. Wilson: Some of the most wonderful people live in the building. Some of them have been there 15, 16 or 17 years, some of them from the day the building was put there. Believe me, I have examined the building from the basement to the penthouse to the roof, on occasion. I do not do it every day, but I have had occasion to be everywhere in the building and in most apartments. Most of our tenants are wonderful people. They are quiet, peace-loving and clean. They pay their rent; they do not disrupt or disturb anyone's peace of mind; they do not damage the building; they try to help.

I would say this was a deliberate action on the part of the landlord. He was hiring the cheapest help he could get and not enough help. The people simply could not keep up with the cleaning, repairs and things that were problems and it kept going downhill.

Mr. McKessock: It sounds as if it was poorly constructed in the first place or the materials were bad.

Mrs. Wilson: The building won a design award; in fact, it won three awards. I do not think you could say the building was poorly constructed.

Mr. McKessock: Did the original owner take better care or do a better job of the maintenance?

Mrs. Wilson: Yes. There was a tragedy in the family; the marriage broke up and their son was drowned in the little creek behind the building. Nevertheless, it was sold to a legitimate owner, who should have been looking after the building. I think what happened was, he was pocketing the money and right now I believe they have 13 buildings.

Mr. McKessock: The same owner?

Mrs. Wilson: Yes.

The Acting Chairman: Thank you, Mrs. Wilson. I believe Mr. Ewing is now here from the Jane-Exbury Tenants Association.

Mr. Ewing: I was told to make a summary and then make a new brief.

The Acting Chairman: Thank you for doing that.

Ms. Caplan: Mr. Cordiano asked me to extend his regrets to the association. He had hoped to be here this evening, and he wants you to know that he will be reading the Hansard and will be fully aware of your brief.

The Acting Chairman: Mr. Ewing, take us through your brief in whatever way seems best to you.

JANE-EXBURY TENANTS ASSOCIATION

Mr. Ewing: I have gone over Bill 51 several times. I beg to differ with Ms. Caplan and her expression that the landlord would be punished. Bill 51, like the Residential Tenancies Act and the Landlord and Tenant Act, you will see in the conclusion, lacks one thing: the power of arrest.

A landlord may take thousands of dollars from you in illegal rent, or any amenity he chooses. You may then take this landlord to the Residential Tenancy Commission, fill out a 129 application and hope to receive, but it is very doubtful, an order written in compliance with the Provincial Court. They seem to be very rare since none, not one, application 129 has ever been taken into Provincial Court.

The reason being, at least in the view of the head office of the Residential Tenancy Commission, is that the commissioners do not know how to write up an order properly. This seems like a joke, but I have had quite a few dealings in the past seven or eight months with the Residential Tenancy Commission, and I find it to be true.

Of the approximately 16,000 129 applications that have been heard and ordered, 2,900 of them had to go through what is called the sheriff's office procedure, which in itself is another joke. The Residential Tenancies Act, section 123, states that anyone willingly or knowingly failing to obey a commission order is subject to fine--a corporation up to \$25,000, individuals up to \$2,000.

If you happen to be lucky enough or fortunate enough to get into court--and I have gone there three or four times already; so I know--you generally find out that a criminal court judge will throw you and the order out because it is not written properly. Then you go back and ask the commissioner to write the order properly. He or she says, "According to the guidelines, this is the way it should be written." According to the guidelines, it is a joke.

Should you, through a windfall, get a judge who will hear your case, this man can summon that landlord into court and send summons after summons out until they stack up like that, and that man never has to appear in court at all, not in any circumstances, because all three acts, the Residential Tenancies Act, the Landlord and Tenant Act and now this Bill 51, lack the powers of arrest. You have no way of getting that money.

You can go through the seizure portion of the proposal of getting the money back and now you go to the sheriff. The sheriff turns to you and says, "If you were to seize this man's car, you would have to pay a deposit of \$2,500." You might wish to get back only \$400 or \$500. Or he says, "Seize the bank account." Most landlords now have flush accounts. This is an account arranged by the banks. It is like a current account. The money goes in and the instant it is there it is transferred to another account. In actuality, you cannot seize the money in the account because the bank will tell you all the time that there is nothing there. It does not even last a day.

20:10

Mr. Taylor: If you owe the bank money, you will probably see the reverse of that.

Mr. Ewing: That may be so. Unfortunately, tenants are not bankers and they are the ones who are getting clipped.

The idea of the six-year limitation factor that you brought up earlier with the other individual, the amnesty granted to the landlords, the proposal in Bill 51, is the biggest ripoff of tenants in the history of this province. As you said, Ms. Caplan, trying to find the culprit is irrelevant. Under the act it says that the landlord, the person now running the building, is the one who is legally responsible for any illegal rents. It could have changed hands 20 times in the past six years and that means nothing. The person who now is the owner of the building is the one responsible for any illegal rents. We have had judgements on that through the courts. It is not too difficult to trace these things down. It would not be too difficult for a tenant to go ahead with these things, provided the act had some teeth in it, which it does not. I am sorry to get carried away on that point but it was something I was thinking about.

Section 1 of Bill 51 says, "'Maximum rent' means the lawful maximum rent which could be charged for a rental unit had all permissible statutory or other increases which could have been taken on or after the 1st day of August, 1985, been taken." The landlord can prove his case back 10 years and he gets amnesty at once, thank you very much. You are talking about hundreds of millions of dollars that have been taken in illegal rents. When you go through the Residential Tenancy Commission, it can take you eight, nine or 10 months to get one application through.

Ms. Caplan: There are some important changes as far as the timing is concerned. We have heard from everyone who has come before us that the present system is not working because of how long it takes.

Mr. Ewing: The present system does not work because in the Landlord and Tenant Act, under subsection 35(1)--I do not know how they managed to work that one in and get all the rest of the stuff left out--if you have established a debt, you can just take the money back. In the back of the Landlord and Tenant Act is a form 2. You can make it out to suit yourself and all you do is hand it to the landlord at any time before or after the seizure and take your money.

Then the landlord is the one who has to go to court--and does he get into court in a hurry. Holy smoke; it is just like that, boom. Here is the thing, here is the eviction, he is in court and now you are faced with a judge who is looking at you as if you are the thief. You prove to this judge and you say to this man: "This is the legal way. I have a residential or rent review

commission order"--whichever one you have is irrelevant--"I can show you the documentation to this date. This man owes me \$2,000." The judge says, "Are you sure these figures are right?" "Yes." "Do you have anything to say about this, sir?" "It all appears to be legal." "I guess there is not much we can do about it. I guess you just get to keep the money." "Okay, thank you very much."

This man walks out of court. He does not pay you for your time because there is no cost allowance. You have lost one, two or three days' wages, including preparing for this. He always winds up with some lawyer who wheels and deals and shifts you around unless you happen to know exactly what you are doing. I have seen it happen.

Because we have this incredibly low vacancy rate, there are tenants who are terrified even to address the fact of going after the landlord for their money. They are afraid the landlord is going to evict them. Notices of eviction are stuck on people's doors. This is an out and out fraud, by the way, but it happens all the time.

For late rent there is an added surcharge of \$25, \$35, \$50 in a month. Under subsection 108(5) of the Landlord and Tenant Act, it states that the only way you can do that is where the landlord actually goes through the court. He makes an application, he pays \$18.35, I believe, and then you are legally responsible for that cost. But when you come up with this piece of paper to the court and say, "He demanded this money; he said I had to pay it or get out. I want the \$50 or \$25 back," the court says: "Sorry, it happens to be in the Residential Tenancy Commission's jurisdiction. There is nothing we can do about it." Then you go to the Residential Tenancy Commission and what does it say? "It is outside the realm of our jurisdiction."

You have an out and out fraud here, an intimidation, an extortion. You can put any word you want on it, but that is exactly what it is. The laws do not protect the tenants and Bill 51 is a sham. It is the worst piece of legislation I have ever read. It provides nothing for the landlords; it provides even less for the tenants. If this ever builds one apartment building, I will be the first senior citizen to move into it.

The minister can bring in legislation that will assist both the tenants and the landlords and finally get Ontario off the developers' backs and out of their business. In all truth, the government should never have got into this mess in the first place. I do not know how Bill Davis managed to get wangled into this deal he made, with whomever he made it or whatever he thought his political future hinged on, but it was the biggest mistake he ever made in his life. We, the taxpayers, the citizens of this province, have had to pay for it and for the Residential Tenancy Commission, which for the most part is a farce.

I do not know if any of you have ever been to a rent review hearing. When we go to the rent review hearing, the commissioner tries to be a judge in the sense that she or he will do her or his level best to not be biased to one side or the other. I did not see the pictures you saw, but I can go by the fact that I have seen a lot like them. We have a landlord sitting here saying, "I have contracts." You have property standard acts and laws that you cannot enforce in any way, shape or form, in any municipality. I have been to Mississauga, Scarborough, North York and East York. The property standards inspectors say to you, "We are too busy." When you have a whole building to get on to property standards, after four or five they say: "Just mention my name to the guy, because I am too busy. I cannot get out there." I have the names of those inspectors. I have gone to mayors and different people and I have tried to get a little pressure put on them. I do not know their area, how

much they cover or how busy their schedules are. Instead of wasting our time with nonsense like this, how about a few more inspectors?

How much will Bill 51 cost Ontario? How much does it cost already?

Mr. Taylor: About \$40 million?

Mr. Ewing: If that is all it takes, that is all it takes. You have to have inspectors who are going to do their job. They all say they are policemen of the buildings; but if that is a policeman of a building, I would hate to have to start walking the beat, because crime would be running rampant. It is terrible. They write a little order and they have the power. I know. I have gone over and talked to them. I say to them: "Find this guy and drag him into court. Do not hit him with a \$100 fine. The maximum says...and nail him." It is the same thing with the Residential Tenancies Act. How many landlords of the 16,000 or so 129s have ever been brought into court? Not one to date, since 1979.

20:20

Mr. Taylor: I want to clarify my interjection. I muttered \$40 million asking--

Mr. Ewing: How much money this has cost us so far?

Mr. Taylor: --about the cost, but I was corrected. The projected cost is only \$20 million, but I suspect it might escalate.

Mr. Ewing: I am sure that would provide quite a few inspectors with jobs for a few years, but that is not the point. The point is we have to get something done to get the government out of the developers' business. Ever since the government got into the developers' business, all we have heard is muttering, screaming and hollering: "My God. We are tied down. We have this and that." They are making more money now than they ever did and they do not have to do anything for it.

In the 1960s, when no rent controls were in existence, when there was a five or six per cent vacancy rate here in Toronto, landlords were reducing rents, offering two-year leases at the same rent or increasing amenities. Now they have a lock on it, "Thank you very much. I get six per cent no matter what happens," and they pull out amenities. When you go to the Residential Tenancy Commission and say, "You cannot do this, you cannot do that," they turn around and say, "Sorry, that is not our jurisdiction."

Whose jurisdiction is it? You go through the laws: "This the law, the Residential Tenancies Act. This is the law, the Landlord and Tenant Act." You turn around and say, "Go for an abatement of rent." You go for that and the judge turns around and asks, "How am I to determine what a swimming pool costs?" I do not know. The lack of the use of it is ignored. The advertising is for swimming, tennis, this, that, whatever. Then you move into the building and within two or three years the swimming hours are restricted or the tennis court is left to deteriorate to a pile of garbage. You could not play tennis there if you wanted to.

Mr. Taylor: I saw the pictures.

Mr. Ewing: Do you understand what I am getting at? Your idea of these standards--it says in section 15 that the municipality will administer the standards--

Ms. Caplan: There will be a provincial standard.

Mr. Ewing: Yes, I know there is a provincial standard but the municipality is going to be the one that administers it. You have property standards inspectors who cannot do the job now doing what? All they are going to do is say to the minister, "By the way, this guy is not keeping things up to scratch." He applies and the minister says, "Listen, you had better get on the ball," and the guy says, "I have to do this but I am going to take some time." You could have property standards orders backing up and you are still never going to get anything done.

Ms. Caplan: And he will not get a rent increase at all.

Mr. Ewing: He will get his rent increase because the law states that if a man has a proposal contract and if he has a signed and valid contract under the capital cost expenditures, it does not require that 50 per cent or 100 per cent of the work must be done.

Ms. Caplan: This new bill states that the minister can withhold any increase--

Mr. Ewing: The minister will not withhold any increase to a man who has a contract for the repairs. The minister will not say, "Get it done first and then I will give you the increase." In some provisions, believe it or not, it is even retroactive if it is done, which, again, is ridiculous. What kind of an incentive is that?

You want to maintain certain standards and you want certain things to make sure that when you go home the door does not fall off and the garage is not vandalized every 10 minutes. Yet there are no provisions in this act in any way, shape or form to shake up that landlord. There are no powers of arrest. That is the only thing that is going to shake up the landlord.

When he gets his summons and he has to appear before a judge, the landlord will wake up to the fact that now he is in the soup. There are pro-landlord judges and pro-tenant judges. It will even itself out, but it takes only one, two, three, and this fair rent landlord deal will shatter. It is like a house of cards. They will say, "We had better pick it up here."

At the end of my conclusions I have a little thing the minister could read with regard to the idea of--it may be a unique proposal but it seems common sense to me--getting the government out of the business of the developers. Somehow or other they got into it and ever since then we have gone downhill in a hurry. It is a very simple thing. This province needs five per cent real vacancies. No matter what we do with this act, we are going to have some kind of rent review board and it will monitor the vacancy rate within that municipality.

For each municipality that attains a real five per cent vacancy rate, this government should guarantee developers the abolition of rent controls.

When you had a five per cent vacancy rate, landlords painted your apartment every year, or every two years at most. You did not have problems getting plastering done on the wall because this guy figured you would move out.

Now you are going to have a seven or eight per cent vacancy rate because the guy across the street is keeping his building clean and that is

exactly--if it were done municipality by municipality, some of them right now would opt out of rent controls totally.

Mr. Taylor: They used to give two or three months' free rent to take an apartment.

Mr. Ewing: That is correct.

Mr. Taylor: There were tenants who used to move and if the place needed paint, they would move to a fresh apartment because there were that many units on the market. You remember that.

Mr. Ewing: That is correct. I remember my landlord coming to me when I had a one-bedroom apartment in the Lawrence and Keele area and offering me a two-bedroom apartment for the very same rent so that I would not move out and he would not incur greater vacancies.

It can be done very simply. You have the municipality. You already have 22 offices in this province set up for rent review or residential tenancy matters. They are going to switch the name, but it is the same thing. The same people are going to work there. The commissioners are going to put on a new hat; they are not going to be commissioners unless something from the old act comes up, and then they are going to put on another hat and become commissioners again.

You could do it, but you do not do it. You are the people who literally run the province; maybe not one individual, because we do not have that many seats in the House. I know we are adding five more but still we do not have that many.

It could be done easily, especially now, under a government which has to listen to the groups or fall. In every municipality, if you offer every developer that kind of deal and say, "You create a real five per cent vacancy rate and we will absolutely abolish rent controls in your municipality," you will have developers flocking in there.

Now you have no rent controls and a 12 per cent vacancy rate. Eventually they will wake up and say, "Humm, okay, listen. Why do we not just do it in Toronto, Ottawa, Windsor and London, where it is needed." Brampton just built a new plant out here. You had 50,000 people running around for 3,000 jobs.

It is not that difficult to do. Let the developers do it on their own. Stay out of it. It is a very simple process. "Show us real five per cent, maintain the real five per cent for a minimum period"--not this idea of the next 20 years nonsense, but for a minimum period--"We will abolish it the minute it happens. You do it, we will get out. Thank you very much."

Leave the developers alone. They were doing great before the government got in on it. I know we got in on it because of all the crap, but that was high interest rates. You cannot do anything about high interest rates. The world economy is shaking like crazy, so there is no way this province or the members of the House are going to do anything about interest rates. Just let the developers do what the developers do.

As far as the tenants go, since we have to live in this province we have to have rental housing. Put something in this act that allows you the power of arrest, something that allows you, the minister or the board, to really fine someone, and it will only take a few. If you hit a developer with a \$25,000

fine because he failed to abide by a \$500 129 order for application for rebate, that will go like a shock wave through these developers, to the landlords and never ever build one apartment building, one affordable housing unit in this entire province for that reason, because they are getting it both ways--they are eating their cake and having it too.

20:30

They can take the money at any time they choose and you have to come and catch them. When you catch them, you cannot do anything; your hands are tied. There is absolutely nothing you can do to that developer or the landlord, and he walks all over you. Literally, you are slapping in the face the honest developer or the honest landlord, the guy who played by the rules. the guy who is keeping his building up. Not every landlord is a Shylock.

The point is, the ones who are doing it right, who did not take the massive increases in the 1980s--1981, 1982, when they first really got in on it heavily after the 1979 shock--came back to the Residential Tenancy Commission and then they figured out: "Okay, right, now we know what it is; it is nothing. We can do as we please." There are 306 people in our tenant group out of 308 apartments.

Mr. Taylor: Does that mean this is manifest in the view of all those tenants when you say this?

Mr. Ewing: I have talked to them and they have talked to me. We have been back and forth over this thing I do not know how many times, trying to work out something. You cannot bring in this bill because it is literally a sham and it wreaks havoc on the tenants. Actually, Mr. Curling, if you look at the conclusion there, is going to face the same fate as another provincial minister who in the 1960s got aced, unfortunately for him.

This bill is a sham, and if you do not give the developer and the landlord some real goal, five years from now we are going to be right back in this room going right over these laws again trying to do the same thing all over again. It is costing \$20 million; then it will start off at \$40 million or \$50 million with inflation.

The only thing is that we probably will not be the people sitting here arguing about it. This bill, as I have detailed it, outlines an awful lot of places where you could institute the powers of arrest, especially section 115 of Bill 51. There is nothing there. It reads nicely, but after you have read it, it is like the Sunday funnies: Monday morning they are gone, and that is it.

Any person who knowingly fails to obey an order of the minister or board gets what? Nothing. It says here you can fine him. No, you cannot. You cannot fine that person. The reason you cannot fine that person is that in order to issue that fine, you first of all have got to get him into court and you have no way of bringing that person into court under this bill, or under the Landlord and Tenant Act or under the Residential Tenancies Act. If you cannot get him into court, how are you supposed to fine him? The minister cannot issue the fine, because I will tell you, if he started doing stuff like that then there would really be chaos. So he has got to go to court. If he does not go to court, as I said before, the summonses can stack up to the roof and he never has to answer them; he can box them up and use them as wallpaper.

You have to bring in something that radically changes the format of this and simplifies it. To try to combine what used to be the Residential Tenancies Act and a few of the Landlord and Tenant Act things and this and that into this small bill and say this is a simplification is absolutely ridiculous.

The simplest thing in the Landlord and Tenant Act is subsection 35(1), which states that a tenant may set off against rent due to the landlord the debt owed him. That is the simplest thing, and yet only one case has gone to Divisional Court on that basis. It was upheld. The judge said: "That is the law. Right. There is nothing you can do about it." However, the rest of the tenants in this province do not know. Metro Tenants Legal Services wants me to publish a brief on this thing and get it out to every legal office so everybody can run around doing it.

You have brought out the idea of this educational facility.

Mr. Taylor: It was not me. Do not look at me.

Mr. Ewing: No, I did not say you personally, but it was brought up.

After dealing with the Residential Tenancy Commission and everything else, the minister, Mr. Curling, will have to sit down and conduct classes. Otherwise, nothing will get done. I do not think Mr. Curling will take up night school classes just so he can turn around and build up his own personal image or that of the members of the executive committee. There is just no way.

The Acting Chairman: He would be happy to do that.

Mr. Ewing: Yes?

The Acting Chairman: Sure. Let me see whether any members of the committee have some questions here.

Mr. Ewing: I did not read this to you. I was going to, but then I thought to myself that all it is is exactly what is here and what is wrong with what is in here.

Mr. Taylor: Your message is crystal clear.

Mr. McKessock: Are you saying the landlords do not want it and the tenants do not want it?

Mr. Ewing: Actually, the landlords would like it for two basic reasons. The first basic reason is the amnesty. They would walk away with hundreds of millions of dollars. I do not think the honest landlords want it, but other than that, yes.

The second basic reason the landlords--or the developers, we will say--do not want it is that they would definitely like to get the provincial government out of their business.

Mr. McKessock: You are representing tenants and you are saying the tenants do not want rent controls.

Mr. Ewing: No. If you give tenants a five per cent vacancy rate and then have the government say, "We would like to institute rent controls," you will have anarchy because you will be taking away--such as this one lady whom you brought up before who lost her amenity. If you go before the Residential

Tenancy Commission commissioner and you say, "We lost an amenity," do you know what he will do? He will say, "I cannot"--even though it is in the guidelines and the commission does have the justification to do so--"rule on this situation."

Mr. McKessock: The reason rent controls came in was that there was not a five per cent vacancy rate.

Mr. Ewing: The reason there was not a five per cent vacancy rate was the interest factor. They could sell condominiums and get more money for them, so they stopped building low-rental housing.

Mr. McKessock: You cannot guarantee a five per cent vacancy rate.

Mr. Ewing: You cannot guarantee anything, but if you were to give the tenants in this province a five per cent vacancy rate, the nonsense that happened in the building on Lawrence Avenue would never happen. The people on the north side or the south side of Lawrence--whichever this building is--would be definitely moving across the street into this nice building that would be standing up because this guy does not want to have a five or six per cent vacancy rate.

You have the means of controlling it. You have the means of determining it right to a T. It is a very simple process. It goes below the five per cent. How much? A percentage point, a per cent and a half, and you are starting to lose ground. All it takes is to ask: "Hey, guys, there was supposed to be a five per cent thing here. Where is it?" Watch how fast apartment buildings get built. Do you think they would want to lose that and have the government come back in on them again? Not a chance. If they ever got out from under the provincial government, they would not let you guys in with a gun.

The Acting Chairman: There you are, Mr. McKessock. Thank you, Mr. Ewing, for an interesting presentation.

The next deputation is from the High Park Tenants' Association and David Fleet.

HIGH PARK TENANTS' ASSOCIATION

Mr. Fleet: First of all, thank you for the opportunity to make representation tonight. I realize it has been a long day in what I found to be a rather hot and stuffy room.

Mr. Taylor: I agree with that.

Mr. Fleet: It would appear, as I observe the gentleman distributing our brief around, that you have not had a prior opportunity to read the brief. It was not my plan to try to read at you what is there. I trust you will read it after this particular session at some point. I would, however, like to proceed through some of the more pertinent points that are contained in the brief.

The background of the High Park Tenants' Association is set out on page 2, in terms of its size and the nature of the representation we are making. The objectives of the High Park Tenants' Association are to ensure that tenants are not forced to move out of their apartments and to ensure that affordable and properly maintained housing continues.

We obviously have an interest in protecting our tenants and in the interests of tenants generally. We would submit very strongly to you, however, that we do not represent simply the interests in our particular buildings, although that is quite a large complex as tenants' associations go. We believe that the sentiments we express reflect in many ways the interests and the views of other residents in former Cadillac Fairview buildings, and also represent in many ways the interests of unrepresented tenants throughout Ontario.

The process that has led up to Bill 51 involved a certain form of consultation with a committee--I believe it was called the Rent Review Advisory Committee--appointed by the Minister of Housing (Mr. Curling), and we certainly do have some concerns with respect to that process. We are strongly of the view that that committee did not properly take into account the full spectrum of tenant interests, particularly those in High Park and other former Cadillac Fairview buildings.

We have learned of apparent attacks on Bill 51 by some of those groups, including the Federation of Metro Tenants' Associations. If those reports are correct, we find this very difficult to understand, since they had direct representation on that committee; and to the extent that any group, whether a tenants' group or a landlords' group, would attack a matter in which it was obviously centrally involved, we find it utterly hypocritical and not particularly credible.

The interest we have expressed here--we have spent quite a bit of time in preparing this brief--is one that obviously takes into account our own particular interests, but we would submit very strongly that it has tried to take into account as much as possible a wider view across the province, and we have deliberately attempted not to approach it from strictly narrow self-interest or a parochial view.

In terms of the current situation with respect to our particular buildings and other former Cadillac Fairview buildings, we want to remind the committee of what the true situation is in terms of the complexity of both law and social policy issues. To the residents of High Park, the complex is a home and it is a community; it is not simply four walls and a roof. Many people have lived in the buildings for a prolonged period of time, and generally speaking, if they are not forced out, they intend to stay for a lot longer.

The High Park Tenants' Association is, in particular, a broad cross-section of individuals in terms of social background, economic strata, ethnic background, age and almost any criteria you choose. We have had quite a bit of consultation. We have been an active association that has been involved for several years on a continuing basis and not simply on a crisis-by-crisis basis.

In terms of the principles set out in this bill, there are a number of provisions the High Park Tenants' Association supports. The association supports the principle of a balance between the interests of tenants and of landlords for the purpose of expanding the rental housing market. As a different example, we strongly support the introduction of a rent registry. It will certainly be a better situation with a rent registry than what we have now, and the problems that tenants face everywhere with potential illegal rent increases.

However, we also have a number of concerns which, frankly, we do not think are adequately met by the provisions in this proposed bill. We have considered in particular the impact of Bill 51 in the High Park area, as opposed to the current situation or the situation that might have developed as a result of negotiations we had ongoing with the receiver, who is the current landlord of the building.

In general terms, our overall concerns are threefold. We are particularly concerned that rent increases under Bill 51 would impair the ability of existing residents, particularly those on fixed incomes, to remain in their current homes. Second, we are particularly troubled by the spectre of large annual rent increases, and as far as we can determine, that may continue for a number of consecutive years. Third, the question of maintenance standards is something that is of particular concern to us, and I am certain it has been the topic of representation from a number of different groups.

In the case of the High Park complex, the buildings are essentially less than 20 years old, and yet there is a demonstrative need for substantial investment of capital to maintain them as a quality living space. We have cited in our brief about three particularly severe examples. The hot water piping is rusting out. It is in a bad state already. We get rusty water in virtually every part of every building, and we are talking about more than 2,600 units. There is plaster disbonding on interior walls on virtually every floor of every building. We have considerable deterioration of the concrete in underground garages. There are even examples of brickwork beginning to deteriorate.

Generally, what you have in High Park is a significant pattern of increasingly poor maintenance year by year. We are not suggesting the building is physically going to fall down around our ears today, but we are very much aware of essentially irrefutable evidence it is slowly, steadily and surely deteriorating and an influx of money is required to deal with that problem.

As a result of the negotiations we conducted with the court-appointed receiver, Clarkson Gordon, we managed to arrange for the appointment of a quantity surveyor to do a very detailed report of the condition of the buildings. I suspect we, as a tenants' group, have a better idea of the physical condition of our buildings than any other tenants' group in Ontario.

You have the report in front of you. There are eight binders involved with the different buildings, about six inches of paper, and I am advised that report cost in the neighbourhood of \$50,000 to do. It is very thorough and it demonstrates that there is a need for repairs to bring the buildings back to an as-built condition, not to increase the quality over what was intended originally, of about \$14.5 million over 20 years, and an initial input of an estimated \$6 million is required in the first couple of years.

I must say at the same time that the fire safety and security standards are inadequate in today's terms, and they would take additional money. Meeting fire safety standards alone is estimated to require another \$2.3 million.

We are troubled--and I depart at this point from the written brief--by comments that were apparently made before this body by a member of the staff of the ministry, Mr. Church. I have a transcript. On pages R37 and R38, there is a representation by Mr. Church that there is not a need to include for the purpose of estimating probable rent increases the capital expenditures, which we have estimated are minimally required.

We do not know why Mr. Church would speculate on something for which he is obviously lacking information. We do not think that was an appropriate or justified comment in any respect. Frankly, if Mr. Church had wanted the information, he knew my phone number and he could have called and got it. None the less, that is the kind of misapprehension we have had to deal with in making a reasonable analysis of what the effect of Bill 51 will be.

20:50

With respect to the situation we thought we were going to be able to proceed with to allow a choice for our tenants, the real negotiations with the landlord about conversion, and without attempting to go through all the particulars, we have negotiated a situation to protect our tenants, to provide affordable housing, to deal with maintenance, all the issues that are before you with Bill 51. We did so on the basis that no tenant would be evicted, that there would be a maximum rent increase of the current guideline--at this time it is still four per cent--and that all individuals, tenants or people who might be buyers under a proposed condominium process would have a right to a new stove and fridge, which are on their last legs throughout our buildings.

On top of that, because of the particular nature of the rent schedules and the economic conditions at the time, we anticipated that 40 per cent of tenants would have the opportunity to lower their monthly housing costs if they were purchasers instead of renters. Of course, they would not be required to be purchasers. In addition, there was to have been an injection of \$14.8 million towards capital expenditures, which we had targeted for such things as replacing the piping, fire safety upgrading and improved security.

We now have to estimate what our probable outcome will be as a result of Bill 51. We found it very difficult to determine exactly what we would face. We found this difficulty in two respects. We do not know who our landlord will be next year. We have been advised by the receiver that the buildings will be sold. There is a report in the newspaper that the \$433-million bid of one potential purchaser was not enough and was rejected. Before knowing that, we made our calculations on the assumption of a sale price of \$100 million. On the basis of the overall number of Cadillac Fairview buildings, our percentage of \$433 million would be approximately \$104 million, so our analysis was quite accurate and slightly conservative from what we anticipate will be the real sale price of the buildings.

We will be unaware of the nature of the ownership and the nationality of the individuals controlling the companies. We are left to speculate on what will happen. We know it will not be the tenants who live there.

We have an additional problem in trying to determine the nature of the legislation. We understand the process by which the legislation reflects, in many, if not all instances, the compromise that was struck on the committee set up by the minister, to which I referred earlier. However, the simple fact is that the legislation is not drafted very well. It is extremely difficult to read. I am a lawyer by profession; I found it difficult to read. Frankly, I think people who are not used to dealing with legislation would find it incomprehensible in a number of areas. If nothing else, there are a number of areas we hope you will turn back to the draftsmen to clean up the language to make it a little clearer.

Ms. Caplan: Have you seen the amended bill?

Mr. Fleet: The version I am dealing with is the one that was

available through first reading, I guess. This is the one that is available in the government book store. If there is a later version, I am not familiar with it and we have not dealt with it as a group.

The Acting Chairman: You are about to get one.

Mr. Fleet: That would be great.

The Acting Chairman: It has about 93 government-proposed amendments in it.

Mr. Shymko: It will confuse you even more.

Mr. Fleet: Whether it confuses me more or helps me more, I cannot tell yet, not having read it. I will deal with what we are aware of and perhaps you can draw my attention to matters that have already been attended to, if that is the case.

We made a projection on what the probable rent increases might be and we have broken it out on page 7 of our brief. This is the best evidence we have available to us, that we work from, and it is possible that the figures we will face will be higher or lower than what we see here. We have based the figure of 9.6 per cent as a minimum that we anticipate on the assumption that the 4.6 per cent estimate for increased operating costs will be the base, together with the financing pass-through.

Under the version that we had received of Bill 51, we recognized that the pass-through would be applicable only in the event of a loss. Working on the purchase price that we had, it easily translates into a loss initially for, it is hard to say how many years. That is one of our problems in making this analysis. On top of that, we anticipate that under almost any circumstance, any intelligent landlord will structure the deal to produce a loss. It would be almost inconceivable that he would not if he had the opportunity to do so.

The other problem we have in terms of the rent increase at a minimum level of almost 10 per cent is there is no guarantee of any improved maintenance, any proper expenditure of capital funds or any of the other guarantees that, frankly, we think ought to be provided.

Ms. Caplan: Are you aware that under the chronically depressed rent provisions the building would not qualify as a chronically depressed rental building?

Mr. Fleet: I am quite happy to deal with that issue. First, as we read the version of Bill 51 that we had, it was difficult to determine whether it was or was not going to be included. As best as we could understand the act, it simply did not say and, therefore, because of the other provisions, everything appears to be cumulative. It is very strongly our position that it ought not to be allowed to be a cumulative addition with other items. That represents some two per cent of our calculation, getting up to 20.6.

Ms. Caplan: As I understand it--and the ministry staff is here--there are three criteria for chronically depressed rents. One is that there must be continuous ownership of the building since 1983.

The Acting Chairman: Since the first day of November 1982.

Ms. Caplan: Since the first day of November 1982. That provision alone would disqualify your building from the chronically depressed rent provision. It would not qualify for the chronically depressed rent provision of the act.

Mr. Fleet: That is not my understanding of the definition of the landlord. If anybody in this committee can answer who is the landlord or the owner of the building, he or she is doing better than anybody in the Supreme Court has done in a definitive way.

Part of our problem is that our buildings are, frankly, in a unique situation in terms of buildings across Ontario. We looked at the definition of landlord. We do not agree, categorically, that we are protected that way. We do suggest that we ought to be. To remove any doubt, there ought to be an express provision--certainly that could be done without too much difficulty--to make it clear that we are not going to get hit that way.

Ms. Caplan: Let me ask the ministry staff to clarify the provisions for chronically depressed rent and perhaps, if someone could, to give an opinion on the specific case you are bringing forward.

Mr. Laverty: As I understand it, the calculation you are making on your prospective rent increase is the rent increase you would face after the sale from the receiver to whoever the lucky bidder would be.

Mr. Shymko: On a point of order: I wonder whether the questions are proceeding now or whether the process is that we should listen to the end of the presentation.

The Acting Chairman: We are in the middle of a question, Mr. Shymko, so clearly questions are proceeding. After this set of questions has been completed, it would probably be best if we waited until the presentation was complete.

Mr. Laverty: Once the sale that is currently under negotiation is completed, the rent increase after sale would obviously be after November 1, 1982. Therefore, it would not qualify for chronically depressed rent relief under section 88 of the act.

Mr. Fleet: It would appear that the current landlord could ask for it. That was our assumption.

Mr. Laverty: My understanding of your calculation, looking through it quickly, is that you are making a calculation after the proposed sale has gone through. Is that not correct?

Mr. Fleet: Right now, we do not know what the landlord is going to do. We are not entirely sure in what way the deal will be structured. It may be a condition of the deal that the existing landlord make an application. As we understand it, if that is commenced, we may get caught. Frankly, we do not think we should be, but we do not think it is clear. We did not understand why November 1, 1982, was picked, but that ties in to when everything blew up in ex-Cadillac Fairview buildings. We suspect it is supposed to mean something but we are not quite sure what.

21:00

If it is not intended to apply and give us a problem, we think you would

simply put in a provision, a small subsection, that would nail it down. It can probably be done in a number of ways.

In addition, with respect to the problems with section 88, we have a situation in our buildings which we expect is fairly common across all of Ontario with respect to the application of some definition, whatever it may be, of chronically depressed rent. We have three-bedroom units which rent now in the neighbourhood of \$1,100, and others that rent at less than \$750. The reason is that the abolition of the \$750 rule came at such a time that some people got caught and some did not. It seems perverse to us that any landlord anywhere, for any reason, should get to increase by two per cent something which brought that jump, and that he got that benefit when others did not. I take it that is exactly the purpose of that kind of provision, to deal on a policy basis with people who were below the \$750 limit and not those who went above it. It seems to be an unintended but unfair result of the way in which this section is worded.

In any event, we also found great difficulty in understanding, for any complex, what it really meant by saying that a place had chronically depressed rent. The problem comes because of the vague reference to the number and type of rental units, quality and location. It may be the intention of the minister to issue regulations to further define that. That would be helpful. However, unless those are issued we do not know whether it is a relevant consideration to be located in the High Park area, in the city of Toronto or in Metro Toronto. It does not matter whether you are looking at income levels. We do not really know what that means. We think that is a problem for anybody anywhere.

In relation to the other parts of the calculations we did, I would like to turn in particular to a consideration of the cumulative effect. That is one of the problems that crops up in wondering whether a chronically depressed rent category is cumulative or not.

There is no upper limit on total actual rent increases. It seems to us it would make more sense if the possibility was addressed, which we think is very real in our case, that you could have large increases for several consecutive years, especially if there are losses for several years in a row. In our view, it would not be appropriate to have rent increases in the order of 20 per cent in one year, let alone in successive years. Even if the rent increase starts at 20 per cent in one year and slides two or three points one year and two or three more the other, the cumulative effect over a relatively short period of time is extreme. That is going to tend to force people out of their homes. It is one of the principles by which we think the Legislature ought to be guided. It is an ill and an evil that should not be perpetrated either intentionally or otherwise.

In terms of what that limitation ought to be, we are not suggesting it ought to be X per cent, because it would have to take into account, as do other parts of the legislation, the changes in prices, costs and incomes. It should be fixed in some form to the consumer price index, presumably, or to some other index. I note there are some adapting formulae that are adopted. Whatever formula one might determine is the fairest, that surely is the more appropriate factor to determine a ceiling to all cumulative bits of rent increases that can hit a set of tenants.

There is another issue of some significant concern to us. That is the question of rent equalization. In terms of the representation that was made by Mr. Church to the committee, he was, at best, misleading. We recognize that

the rent equalization is worded--although it took us some searching to make sure of it--so that rent equalization would apply in a fashion that the net increase to all tenants is zero. In other words, if the rent increase generally is 10 per cent, some rent increases might be 15 per cent and some might be five per cent, but in a complex or building it will net across the board to 10 per cent.

We have a real problem with that. In our buildings, quite a number of people have been there for 10, 12 or 15 years or since the buildings were erected 18 years ago. These are the people who have the lower rents. The places with the higher rents are the ones that have turned over at various times. Consequently, the people who are going to get hit with equalization tend to be people who have lived there longer and who, not surprisingly, tend to be older people, people on fixed incomes.

The net result of any equalization process, almost for sure, almost anywhere in this province will in all probability hurt the people least able to pay for the rent increases. We are not suggesting that in no circumstance ought there to be any equalization of rents. We do suggest it would be very simple and not inconsistent with the principles in this bill to make an amendment to defer all equalization of rents until a unit is vacated and assumed by a new tenant. That does not particularly hurt the landlord as far as we can determine, but it might be critical to a significant number of tenants who cannot be easily assisted in any other fashion under the current legislation.

We would also like to comment on the provisions contained for capital expenditures. We refer to a number of sections on page 11 of our brief. Back on page 7, we anticipated a rent increase where we estimated what the effect would be for financing of capital expenditures of some \$6 million because we know that is what we need in our buildings. We did not do it by amortizing the capital expenditure itself; Normally, that is what we would expect to do. The way we understand the wording of this bill, that is not what is going to happen. We do not think that is necessarily what you intended but that is the way we understand it. If that is not the intention, it ought to be written more clearly.

We also point out that if we were to factor that in, the four per cent figure we estimated is too low and therefore the maximum rent increase that we thought might be 20.6 per cent might be significantly higher. We also recognize we do not know whether the four per cent is the figure we will actually get. We do not know whether the landlord will put the money in, but it is our best estimate of what we can reasonably expect.

We have some other problems with respect to matters relating to section 97. Frankly, we find section 97 to be rather perverse and peculiar because it seems that if it passes this section, the Legislature intends to criminalize or potentially criminalize a large portion of the tenant population of Ontario. The wording in that section is so broad that it seems to me that if an individual--I say this as a solicitor; if I had a client ask me whether it would be safe to make a bona fide offer to a new tenant to buy furniture that my client did not want to keep any more, I would have to advise that he risked being charged because the wording is so broad that you cannot make even a bona fide offer to sell your own table or chair because it might be interpreted as an attempt to collect key money. We think that is not proper, not logical and not necessary.

In addition, it seems that section 97 will prevent a landlord from

charging administrative fees for subletting units. This is a process that is widespread throughout Ontario, and by and large, whether they like it or not, is accepted by tenants. If it is the case that they will not allowed to charge it, I suspect the landlords ought to be advised because I suspect they do not realize it. If it is not the case and they are going to be allowed to charge it to the tenants on some basis of interpretation, I do not understand why one tenant would not pass it on to the tenant who is coming in who is getting the benefit of the place. He is getting a chance to sublet. Why would that tenant not be allowed to pay the fee, whatever the proper administrative fee would be? Section 97 prevents the tenant from passing on that cost. That is peculiar and it should not be that way.

21:10

But in the larger sense of the rationale for section 97, we frankly think it is an attempt to attack a symptom of the problem of the shortage of adequate housing in Ontario. It does not deal with the supply question. That is where attention must be paid. We think the section as it is written ought to be deleted.

The bottom line is that there may have been some interest among the representatives on both sides on that committee in putting that in, because it is convenient and it does away with a problem issue that is hard to explain away, for a variety of reasons; but the people actually living out there are not complaining about it in true terms. What is happening is that the complaints arise because there is a shortage of supply. That is the heart of the problem, and the question of key money is really ancillary to that.

We do not think you are going to accomplish anything meaningful. If you pass that, you are potentially going to criminalize tenants, and it is probably a largely unenforceable sort of thing. Frankly, the closest analogy we can find to it is the concept of prohibition. You can prohibit things, but that prohibition is going to be breached in many cases, and we do not think it is a useful piece of legislation to pass if you know you are going to have it breached all over the place and if you do not have effective means of enforcing what you are passing.

Concerning the maintenance standards, which we refer to on page 12, we obviously support the concept of having proper maintenance, for some of the reasons I have already gone into, and we support the appointment of a board that would deal with that. However, we have real difficulty understanding exactly how the board is going to operate in practice.

One of the problems that exists is that the definition in the act is to maintain the buildings "in a fit condition for habitation." It strikes us that this is a minimal level; it is a difficult one to deal with in any helpful way for most tenants. I do not think tenants would not want that minimal level, but the reality is that there are many buildings that may still fit that categorization, including our own, that are clearly not being properly maintained.

It seems to us that if the objective is merely to fight off having slums, that is not addressing the problem as efficiently or as effectively as it ought to be addressed. It seems to us that the condition of buildings as they were constructed, or the condition of buildings even as they are entered into when a tenant arrives, are standards that people expect to have maintained.

In the case of the High Park tenants, we can demonstrate beyond a shadow of a doubt that there has been a steady deterioration. We can produce people who can identify precisely, and over a period of years, reduced maintenance in everything from swimming pools being cut back to cleaning being less apparent. I can show you any given floor with the plaster flaked off the wall, with repairs being conducted on an ad hoc basis, with threadbare rugs. You name it and it has deteriorated.

The point of the issue as far as tenants generally are concerned is that they do not want to see their buildings steadily eroding around them. It seems to us that if you introduce a higher standard, at least there will be some realistic possibility that the real concerns are going to be addressed before you get to the point of saying, "Now it has come to the level where it is not fit for habitation at all."

It seems to us that the problem of giving the minister and the board powers that are not as clearly delineated as we think is appropriate could be alleviated perhaps by seeing the regulations before the act gets passed. I have been advised that this is not normal procedure, and I do not know how often it happens, but it seems to me that in this case it ought to happen. We also ought to have some reasonable input on what those regulations may be.

Concerning the rent review process itself, I do not think anyone would suggest he is in love with the current process; certainly we are not suggesting that change is not appropriate. We do have some concern, though, because there seems now to be a lack of the right of cross-examination, and that is a fundamental principle of almost any form of judicial or quasi-judicial process in Ontario or in Canada.

The fact is that the process being advocated in Bill 51 takes away a substantive right of tenants. It may be that tenants do not want that right to be exercised in every case, but there ought to be some recourse to that. I personally have participated in the rent review process where I felt the right of cross-examination was fundamental to the tenants being able to explain their case. Notwithstanding it was a reasonably capable and knowledgeable commissioner at that time, the commissioner would not have known the buildings and the state of the buildings and what had or had not taken place in the buildings in a sufficient manner to ask the right kinds of questions.

The fact of the matter is the tenants are going to get farther if they are able to make representations on their own behalf, and it seems to us that an insertion of that right would not fundamentally prevent the reform of the process in the manner that is otherwise contemplated in the act.

Frankly, it also calls upon bureaucrats to do things we do not think they are equipped to do. They cannot possibly ever know the condition of all the buildings. It is an impossible task. We simply think it is more appropriate to allow for a greater latitude of input and direct, face-to-face confrontation where that is appropriate.

In summary, I would like to emphasize that although we have made criticisms, in some cases sharp criticisms, of the current bill, we believe we have attempted to be constructive about what ought to take place, and we have attempted to point out that it is not a question simply of being equal everywhere.

In the case of the High Park tenants, we are saying we think there ought to be a little more justice. The case of the High Park tenants and those of

other former Cadillac Fairview buildings is a hard one, but providing justice is a matter of dealing with those hard cases and dealing with them in a manner that is fair for them and fair in other instances of general application. We urge you very seriously to take into consideration all the things we have brought forward.

I will be pleased to answer any questions I can for any of the members of the committee.

The Acting Chairman: Thank you, Mr. Fleet, for a well-organized brief.

Mr. Taylor: I leafed through your brief as you were presenting it and I surmise that probably the majority of tenants in that complex, if I could call it that, would rather have bought. I notice you have about 6,000 tenants in 2,635 units, which is bigger than my two county towns, being a boy from the country. The magnitude of this complex certainly impresses me.

The message I saw in your brief was that the majority of tenants would rather have owned their units and had they been permitted to own their units, they would have been better off than they will be under Bill 51. Am I concluding properly from your brief, or have I missed something?

Mr. Fleet: I think it is fair to say that the option the High Park Tenants' Association was attempting to put forward to the tenants was what we have characterized as freedom of choice--freedom to choose to buy or to continue to rent.

About the deal that was negotiated--I am sure I speak on behalf of the executive and the committee that did the negotiating--they feel it was a very beneficial result and it occurred in circumstances that were not the same as most tenants face. Certainly, the option to buy was negotiated in a fashion that made it very attractive because of a number of economic pressures on the receiver.

The final answer on how many tenants would have approved it or not, we do not know. The receiver withdrew its offer. We never put that to the test. My personal opinion is that it would have been met with widespread acceptance. I am certain, however, that not everybody would have bought. There would have been a measurable number who would have remained tenants. We felt the beauty of the deal was that it protected those tenants very well, and in addition it provided a benefit for those people who had the inclination and the ability to buy.

21:20

Mr. Taylor: In reading the proposal to the tenants that was submitted--it is attached to the back of the brief--I noticed it seemed very fair and protective and gave a five-year assurance to those persons who did not wish to buy. What was the reason for the withdrawal by the receiver?

Mr. Fleet: You can ask the receiver himself, but as we understood it, the receiver was motivated by a number of concerns. One was that the period of time to be dealt with under Bill 11 was going to be unduly long, and the receiver was under some pressure from the realistic creditor, the Canada Deposit Insurance Corp.

In addition, the receiver was of the view that the current real estate

market made it profitable to move to sell the buildings. Given the price, which purportedly has been turned down, that part of the judgement was probably valid.

It was the position of the High Park Tenants' Association, which we expressed quite strongly to the receiver, that we wished to proceed under Bill 11. We took the view that we could have continued the process. We did not share the view of the receiver that it would take as long as was anticipated to get through the process of approval. Again, we do not know. The receiver exercised its discretion to withdraw that proposal.

Mr. Taylor: It was not government policy that fouled up the intended transaction; it was a business judgement on the part of the receiver.

Mr. Fleet: I do not want to mince words, but quite frankly, I think the receiver made a business judgement in the light of its understanding of the impact of Bill 11.

Mr. Taylor: I cannot understand government policy that would be directed at moving the present tenants out of that building. That is what it would be doing if that policy is to say to those people in there, "We are not going to let you buy your home because you will be too permanent." That is what it is: permanence. People like roots and they like to have their own place. That is the ambition of most people. They want a nice home, whether it is an apartment or some other type of accommodation, but that is permanence.

Government policy then is directed against permanence. If it does not support that home ownership, what it is saying is, "We want you folks to move along to make room for somebody who might want to rent those apartments." At least that is the logic I see there. Otherwise, they would embrace the whole concept of home ownership and permit you to buy your units.

Ms. Caplan: I would like my colleague to make a statement on his commitment to preserving affordable rental stock.

Mr. Fleet: I cannot honestly say it is the--

Mr. Taylor: If it is permissible, I am happy to enter into a dialogue with Mrs. Caplan. I happen to believe in home ownership. I think the hopes, aspirations and ambitions of most people in this province and in this country are to own their own home. I do not think government policy should be directed against that. That is my view.

Mr. Fleet: If I might respond--

Mr. Taylor: And if you are talking about housing, let us talk about affordable housing, which is another--

The Acting Chairman: Let us let the witness talk for a bit.

Mr. Fleet: If I might respond to the question, I do not--

Ms. Caplan: The removal of affordable rental stock--

The Acting Chairman: Mrs. Caplan, we are listening to Mr. Fleet.

Ms. Caplan: You are not going to let me respond. All right.

The Acting Chairman: You can work in a little dig in your next question.

Mr. Fleet: To my understanding, I do not think it would be accurate to say the stated government policy is to deny people home ownership. I think the differentiation is the question of the method of protecting affordable housing in the province.

We have indicated prior to tonight, and to some extent tonight, that in the instance of the High Park tenants the deal that had already been under negotiation for a considerable period of time was an appropriate deal for the unusual circumstances there. We did not see a prospect, for instance, of additional housing being built, given the fact that the receiver's stated intention was to dispose of buildings and not stay in the building business. Generally speaking, that makes the receiver different from the rest of the builders.

As to the actual impact, I am not interested in quibbling over the debate. Obviously, we thought it was a good situation for our tenants. We suspect many of them would have become buyers, and a substantial number, although I anticipate a minority, would have remained tenants.

I do want to emphasize--and I do not want to retract in any way, shape or form our position in terms of Bill 11--that we were not terribly pleased with the way in which that process worked. However, we are making representations now to Bill 51, and I want to make it very clear that we are concerned that if the reality we will have to deal with is to what extent our rent will go up and to what extent we will have maintenance, we are very concerned that the rent will go up but the maintenance will not. Right now, that is our most paramount concern. We are trying to be pragmatic. We tried to be pragmatic all the way through the other deal to the extent that we could.

Mr. Shymko: First, I would like to congratulate Mr. Fleet and all the members of the High Park Tenants' Association executive and those who were involved in the preparation of this brief. I have not sat in on all the hearings of this committee. I had an opportunity to sit at some of the hearings, and I think it is one of the finest presentations made to this committee.

My first question is about something you mentioned in terms of your association's relationship with the Metro tenants' federation and what one defines as "being spokesman of." Are you members of the Metro tenants' federation?

Mr. Fleet: Our membership in the federation as an association has gone on for a number of years. There were fees paid in 1985 and in 1986. To our knowledge, we are by far the largest member organization. Our experience with the federation has been decidedly unhappy in the past months and the status, as we have referred to in the brief, is on a litigation footing.

Mr. Shymko: In other words, when this committee listens to representations from such a prominent organization as the Metro tenants' federation, are you trying to tell this committee that one has to be very careful not to perceive its briefs, its assessment of legislation such as this, as being truly representative and reflective of the views of all the tenants in Metro?

Mr. Fleet: Yes.

Mr. Shymko: Although you have not taken a survey of the tenants of your complex to find out whether they would be supportive of your proposal, is it your feeling that the majority would have opted for that proposal of an arrangement with the receiver in the options that were discussed and presented here?

Mr. Fleet: The best estimate we were able to make, based on discussions with hundreds of tenants, was that the proposal would have received broad support within the complex.

Mr. Shymko: Can we fairly assume that your presentation and your brief are reflective of the opinions of the majority of the tenants?

Mr. Fleet: Yes. In fact, I would go further and say that the extent to which we had consultation taking place over the past year, given the size of the complex, is quite extraordinary. We have done an awful lot of work. I do not want to suggest that there are not dissident views. Obviously, out of some 6,000 people, there will be some.

What I think is fairly straightforward and does not take a lot to deduce is that any situation where you can lower the rent increases, improve the maintenance and improve security of tenure is obviously one that tenants will tend to favour. That was what we worked for at the start, that is what we are working for now and that is exactly what we are urging this committee to take into account.

Mr. Shymko: One of the fundamental aspects of your proposal during the discussion and debates on Bill 11, which is now passé--

Ms. Caplan: Passed.

Mr. Shymko: Passed, not passé--is the tenure aspect of those who would have opted to remain as tenants and would not have preferred to accept conversion or home ownership but rental of their homes. I have perceived, and most of us have seen, that this was one of the problems in the proposals.

Were there any other options in the guarantee of lifetime tenure or permanency of tenure outside of legislative amendments to two bills or to an act, since there is no guarantee of lifetime tenure in present legislation as such in Ontario?

Mr. Fleet: Frankly, I am not sure I understand the question. As best as I can understand it--

21:30

Mr. Shymko: Had Bill 11 not passed, would it have required amendments to some acts in order to guarantee lifetime tenure, which is the option that would have been offered to those who had opted out to be tenants? Could that have been integrated in the bill?

Mr. Fleet: Our understanding of the question of security of tenure is that it was possible prior to the introduction of Bill 11 to assure tenure in one of a number of ways. There were ways that were particularly complicated; there were ways that were somewhat less complicated. The difficulty that arose in terms of the application of the act was from a case in the Supreme Court of Ontario with which the receiver was involved, where it

asked essentially a hypothetical question to the court in respect of another property known as Bretton Place.

The act was interpreted in that case in a manner which suggests that the landlord does not have the right to contract out of statutory rights under the act, even where the landlord intends to do so, the landlord is not being prejudiced by doing so and is doing so in a knowledgeable fashion in a deal struck with, say, tenants.

We received legal advice which would suggest that there were other ways to accomplish the same end prior to Bill 11, but that, in any event, the simplest manner that would rectify the situation would be an amendment to provisions in then current legislation that would have allowed tenants the right to negotiate a deal with their landlord in a proper way and would have allowed the landlord to give up any theoretical right a landlord might have.

The proposals we put forward were not adopted, and the question, as far as I am aware, goes back to the state of affairs prior to Bill 11. Whatever rights we had prior to Bill 11, we still have in that regard.

Mr. Shymko: The intent of Bill 51 is the intent of Bill 11. It basically addresses the whole question of affordable housing for our citizens.

Ms. Caplan: No, it does not.

Mr. Shymko: Fundamentally. It is my understanding that this government is concerned with affordable housing--

Ms. Caplan: Of course.

Mr. Shymko: --the need for more affordable housing, and Bill 11 has addressed that issue.

Ms. Caplan: Partially, yes.

Mr. Shymko: Partially. The concerns we have heard from the witness today have addressed the issue of affordable housing and some of the options that were available from a group of tenants who saw certain proposals and certain ways of guaranteeing affordable housing that this bill prevents and works contrary to. Is that what I am to understand? To be faced with 40 per cent of the tenants who saw the ownership of their units provide 40 per cent less payment, or carrying of their home payments more cheaply than it would have been to rent, with an additional 20 per cent increase that probably will fall as a heavy axe on all the tenants now, your proposal of conversion and the option obviously address a solution to affordable housing.

Mr. Fleet: It is one that we would have preferred to have the option to pursue.

Mr. Shymko: And one that would have definitely guaranteed it to Canadians--in this case, tenants who have lived in these complexes for a number of years. We are talking about affordable housing.

Mr. Fleet: That has obviously been a concern of our association. We want to make it more affordable for the people who live there. There is not much secret to that.

Mr. Shymko: The impact of 20.6 per cent, which is a bare-bottom increase, that you perceive as coming from whoever purchases those complexes--

Mr. Fleet: No. I do not think we have ever said that 20 per cent was the bare bottom. We said that--

Mr. Shymko: "Conservative" is what you have used.

Mr. Fleet: No. We have said that 9.6 per cent is what we expect as the minimum. We do not know how high it will go. Our best estimate was that 20.6 per cent was the maximum. I would suggest, though, that we will fight it rather strenuously if we face anything of that sort.

Mr. Shymko: Obviously, the situation of facing such increases is not unique to the history of your units in your complex. Can you not say that this would be applicable to a number of other situations throughout the province, where a new landlord purchasing complexes, not as huge as this, would impact in a similar way?

Mr. Fleet: Yes.

Mr. Shymko: You are not unique. You can see examples of this in other parts of the province and in other parts of the city.

Mr. Fleet: Yes. That was one of the points we made in the brief. In some respects, our situation is unique; in other respects, it resembles closely the other former Cadillac Fairview buildings and in yet other respects, the problems we have raised are applicable across the province.

I cannot say exactly what percentage other rent increases might be, but I have to presume there are buildings elsewhere in the province that may have rent increases of the magnitude we are facing.

Mr. Shymko: The last question I have--

The Acting Chairman: Your last question? I was just going to remind you that you have had more than 10.

Interjection: Good questions, though.

The Acting Chairman: Excellent.

Mr. Shymko: The last question I have refers to the question of rent registry. There has been an indication that following the 18,000 buildings with more than six units that are currently required to have a rent registry, the 300,000 units in buildings with fewer than six units will inevitably be required to have a rent registry as well. We refer to examples such as basements and flats currently rented by small landlords.

The impact on Toronto will be that 25,000 units will be withdrawn from the rental market, because people will not rent their basements or flats if they are required to go through the process of rent registry. Does your view of a rent registry support that it be universal for anyone who has a duplex or rents a basement or flat, in the same way as a corporate landlord such as the former Cadillac Fairview, which had 11,000 units?

Mr. Fleet: I do not think the question of categorization was ever squarely addressed by our executive or any of our working groups. As a matter of principle, the purpose of a rent registry is to prevent illegal rents. Any registry that assists in preventing illegal rents, on a universal basis or otherwise, would be supported by our group or any other compassionate group of individuals looking at a tenant situation. I cannot say we have a position specifically on everybody's potential basement apartment in Toronto, but the broad application of a rent registry provides a likelihood of broad protection for tenants.

Ms. Caplan: I have a couple of questions and I will be brief. Before my colleague Mr. Taylor leaves, I would like to point out--

Mr. Taylor: I would not leave when you are speaking.

Ms. Caplan: --to Mr. Fleet that Bill 11 was passed with the unanimous consent of the House. Notwithstanding the comments of my colleagues this evening, the bill was unanimous in the House. There was no division.

Mr. Taylor: Let me put it on the record now that I did not support Bill 11.

Mr. Shymko: Neither did I.

Ms. Caplan: Where were you?

Mr. Taylor: You can ramrod these things through with your unholy alliance, but I would not for a moment sacrifice my principles for that kind of legislation.

Mr. Shymko: You should read Hansard before you accuse anyone of supporting Bill 11.

Mr. Taylor: That is right. You do not believe in freedom of contract and you do not believe in property ownership. That is the trouble with you.

Ms. Caplan: Mr. Fleet, have you calculated what the increases to your complex might be under the existing rent review system?

Mr. Fleet: We have not gone through the calculations under the existing system for the purposes of today's proceeding. One of our problems was that we did not know exactly what the heck was going to happen to our buildings. That has been a difficult problem that we have wrestled with for a long time.

With respect to the rent increases, our position is quite straightforward. If we face rent increases under Bill 51 of the magnitude I have referred to, we are opposed to them.

Ms. Caplan: I wondered whether you had calculated under the existing system what you thought they might be and how they would compare. I will not get into that line of questioning.

The hour is late, so I will not go through your brief. I think there are many faulty assumptions here. I would be pleased to meet with you and discuss it. I think there are many things you have interpreted in a way that would not only lead to the worst possible case scenario but which would not occur under

the new bill. I suggest to you as well that you might be worse off under the old existing legislation than you will be under the new legislation. I would be happy to meet with you to discuss that with you.

21:40

The Acting Chairman: Thank you, Ms. Caplan. May I say that we discussed the High Park situation earlier, as you know, and at that time Mr. Church indicated that he or his officials would be willing to discuss your particular situation with you. Did that ever occur?

Mr. Fleet: I have never been contacted by Mr. Church in that regard. I have spoken to him on other occasions. I think I can say with certainty that no other representative from the executive was contacted by Mr. Church in that regard. I suppose the value of consultation is only as good as the likelihood of achieving something. My understanding was that the process would be if we wanted to make representations on Bill 51 we should do it here; so we did. I do not think that we are opposed to meeting with Mr. Church if there is some functional benefit, or with Ms. Caplan or with any other individual. We have spoken to a wide variety of cabinet ministers both federally and provincially in attempts to serve the interests of the High Park tenants, and I believe our association is quite prepared to continue in that process of consultation.

The Acting Chairman: Thank you, Mr. Fleet, for your presentation.

Ladies and gentlemen, we are about to have deputation number 181 from Alderman Dale Martin. It is the final deputation. There will be a little trumpet here.

DALE MARTIN

Alderman Martin: You promised five hours--

The Acting Chairman: Alderman Martin, we have heard of you before in these hearings and we are glad to see you here in person.

Alderman Martin: I actually have some data which are paper clipped by political stripe. The blue paper clips belong to that side of the table, I guess, and we have red paper clips. I was hard pressed to decide what colour to identify with the NDP. I decided yellow was the appropriate colour.

The Acting Chairman: Are each of the briefs different?

Alderman Martin: Yes. They are tuned to your own premises. There are more here. I presume staff would like to have copies of them.

The Acting Chairman: Dr. Laverty particularly would like a copy of this. If you see him begin to feed this into his ear, you will know he is going to process it.

Alderman Martin: I am really not going to dwell at all on the detail of the brief. I am just going to speak to essentially one point, which I think is the fundamental point or the critical point underlying the bill. From the point of view of what a bill such as this is going to do or what it is aimed at, obviously the Residential Tenancies Act and Bill 51 are aimed at one thing primarily and that is the regulation of rents. That is what it is all about; so I am interested in looking at the impact of this bill on rents first and foremost. Have we got a quorum?

I was going to start by saying, being a municipal politician and suffering through long committee meetings, I understand the consequences of being the last deputant on the last day of hearings.

The Acting Chairman: If we do not make any comments about a quorum, we do not have a problem.

Alderman Martin: Oh, I see. You do not count here. Is that right?

The Acting Chairman: We cannot.

Alderman Martin: My point is going to be simple. It is that the bill is fairly flawed because it is based on a false premise. It is fundamentally based on the assumption that the problem with the existing rent regulation, Residential Tenancies Act or the system of rent regulation in the province is rate of return to landlords, either rate of return to existing landlords or rate of return to landlords of post-1976 buildings; and that the consequent impact on housing supply and the sort of flip side of that is that the reason we do not have housing supply is that the rate of return is not high enough or is not reasonable enough to generate rental units, affordable rental units in particular.

That is a fundamentally wrong premise. It is a premise that is based, strangely enough, on a very dogmatic or ideological view of the housing market. It is a view of the housing market which is essentially oriented to the notion that only the private landlord--and I am not talking about the private sector but only about the landlord, the purchaser of the housing stock--can act as the motivator or the incentive to affordable housing and that the private landlord is in some way important to housing, that he is more economically efficient or that we need his investment to produce housing, that the private landlord has some fundamentally important role in the housing market. That seems to me to be the underlying thesis. Looking at the facts, I think it is a false thesis.

I can see that few here need to be convinced of the need to have rent review. I was going to ask whether a spirited defence of rent review was required to start things off, since in the press I have seen some slippage in the commitment to rent review. There were even suggestions by an alderman in the city of Toronto from a heavily tenants' ward, Alderman Gee, that phasing out rent review may be necessary or desirable.

The Acting Chairman: He does not represent the view of the Conservative Party of Ontario.

Alderman Martin: That is right; I understand that. That is why I am not going to do a spirited defence of rent review or the underlying logic of rent review. I am going to address three simple propositions or break this down into three sections: What did tenants expect in the form of expanded or altered residential tenancies regulation or rent regulation, what did they get and why did they get it?

What did they expect? It is pretty clear that tenants expected the existing Residential Tenancies Act to be extended to post-1976 buildings and to buildings with rents greater than \$750. In other words, the private market in its entirety would be covered by rent review that was pretty much the same as the Residential Tenancies Act. That is the first thing.

The second thing they expected was a four per cent statutory increase. That was promised by all political parties during the election. It was

logical, given that inflation had come down significantly. It was generally anticipated that there would be a reduction in the statutory increase allowed.

The third thing they expected was a rent registry. Everybody had been promising it since the beginning of time. The Thom inquiry had recently come out with a recommendation, and every party was on record as supporting a rent registry. That is what they expected, and it is within that context that we should be analysing Bill 51. We should be comparing the impact of Bill 51 on rents in the light of what tenants expected.

The reason I am emphasizing this is that I understand the government released a couple of weeks ago a paper that argued the tenants were net winners in the Bill 51 game by something like \$61 million. As I understand the analysis, it is largely based on the recapture of illegal rents.

What sprang to mind immediately when I saw the analysis was the notion of a bank manager phoning me up saying: "I have some news for you, Mr. Martin. The interest your \$100,000 mortgage has just gone up by two per cent. I should also say, however, that the bank was robbed last night and \$4 million of your money was made off with, but we caught them; so you are a net winner of \$1,000 as a result of interest rates going up two per cent." That is the essence of the government's analysis.

When you look at the numbers--I have provided two charts that deal with the impact of Bill 51 on the Residential Tenancies Act--obviously, one has to make a fair number of assumptions, and there are all kinds of things missing. In my view, the things that are missing simply escalate the negative impact on tenants. This is the rock-bottom, minimum impact on tenants.

The chart compares the four per cent that tenants expected to 5.5 per cent and six per cent; it might be 5.2 per cent or 5.6 per cent if the bill is ever implemented. It gives a five-year view of that impact. It is not cumulative. It looks at what happens if you have a series of four per cent years as opposed to a series of 5.5 per cent years.

It is clear that at the end of five years there is a \$400-million transfer from tenants to landlords for the pre-1976 buildings alone as a result of this bill. If the impact of the bill's formula is a six per cent increase as opposed to a four per cent increase, there is a \$545-million increase at the end of the fifth year to landlords as a result of this bill. Cumulatively, it is in billions of dollars.

21:50

If you turn to page 2 and look at the post-1976 buildings, the other thing that tenants expected, extending the Residential Tenancies Act to the entire private rental stock, you see that the impact becomes absolutely staggering. It is a minimum impact in the post-1976 buildings of \$156 million. When added to the \$68 million in year one, you get a \$224-million impact. In the worst-case scenario, it escalates to almost \$750 million in year one.

That all hinges on a whole bunch of interesting things, such as how much equity--what percentage of the purchase price--the landlord actually has in the building and therefore the rate of return based on that equity. We can speculate for ever on what the real number is. I have looked at a range of reasonable effects, anything from 10 per cent to 20 per cent equity in a building of a \$50,000 unit. That is low for 1986, but it is an average number. Again, you come out with staggering numbers.

Given our experience with landlords over the 10 years of the Residential Tenancies Act, it is clear that landlords know fairly well, or they hire people who know fairly well, how to squeeze the maximum out of legislation. I anticipate that these numbers, while rough and ready, approximate reality fairly effectively if the world unfolds for the next five years roughly as it has over the past year; in other words, a phenomenal transfer from tenants to landlords.

Most people would say this is just tenants whining about losing their privileged position in society. My view is that it is not so in general concepts of justice; but more important, in economic terms, in terms of the impact on the Ontario economy, it has a devastating effect. It takes money out of the pockets of those who are universally seen as the lowest-income people in society, renters, and puts it into the pockets of landlords. What landlords do with their money is anybody's guess. The general pattern for major developers has been to export it. I presume the general pattern for middle-sized developers is to buy luxury goods.

What it does is to transfer money from basic necessities such as food, clothing, etc., into other goods, sometimes durable, sometimes not, which is probably not good for the Ontario economy. It is an edge of the analysis that has never been made, but I think it has serious consequences in the case of Bill 51.

My general first conclusion is that it is pretty obvious that Bill 51, by becoming preoccupied with the rate of return for post-1976 buildings, by incorporating a rate-of-return factor into the statutory increase, unjustly transfers money from tenants to landlords. When I say "unjustly," it gets me into the financial summary, the Cadillac Fairview portfolio, which is the little package I left with you.

Interestingly enough, the debate about reasonable rate of return is one that has never been handled adequately with real, live data. The province attempted to do an analysis of it during its initial, reportedly exhaustive study of rent review, when it surveyed landlords. Landlords were unwilling to show the province how badly they were doing under rent review.

Tenants and tenant organizations have argued all along, and continue to argue, that landlords have not done badly under rent review, simply because it is an upward-ratchet program. That is, whenever you are not as well off as you are today as a landlord, you go to the Residential Tenancy Commission and maintain your position. If the statutory increase gives you an amount larger than you need to cover your costs, then you are improving your position.

One of the most celebrated cases in 1982 was the Cadillac Fairview case itself. The suggestion or rule of thumb or "as every schoolboy knows" notion that was flying around was that Cadillac Fairview got out of the rental business because of rent review. I do not recall Cadillac Fairview ever saying that. I looked hard at all its annual reports, I looked at the Financial Post statements as to why it was getting out, and I do not recall ever seeing a statement from Cadillac Fairview that it was getting out because of rent review.

If you look at the financial summary of their portfolio, dated November 30, 1982--I should point out this is a very unusual opportunity primarily because these things are not normally available, and they are available only because they went into receivership; they became court documents and became a matter of public record through the courts--all the supporting data on a

building-by-building basis is here, including the schedule of existing mortgages. It says here "first mortgages," because the subsequent pages in here are for the second and third mortgages that were the so-called illegal mortgages, Greymac, etc. These are the mortgages that Cadillac had on its buildings when they were sold.

I also attach the cost-revenue statement that was submitted when Cadillac Fairview, or Maysfield Property Management Inc., went to rent review. If you look at the summary sheet, it is quite interesting. First it shows that if we assume Cadillac had 25 per cent in real, live dollars and cents in the building--that is, cash--and it put down 25 per cent of the building, in 1982 it would be realizing a rate of return on investment, after debt service, of 25 per cent.

The reality, and there are many documents to demonstrate this, is that Cadillac did not put down anything like 25 per cent of real investment dollars in its buildings. As a rule, they bought land that was zoned R-1 or something like that, got it upzoned to make it more valuable, and then used that as equity in the actual construction of the building; therefore, they often got mortgages of greater value than the complex and took cash out in the first instance. On a strict financial analysis, one could argue, as I would, that the rate of return was infinity; so rate of return on investment is a meaningless notion if there is no money in and there is money coming out.

Let us assume they are like you and me, who have to put 25 per cent into a property when you buy it. In this case, as I said, they would end up with a 25 per cent rate of return on investment in 1982 when they sold the buildings. That is at the same time as they have just made a capital gain of about \$90 million on an original purchase of \$180 million--which is a very liberal number; I think it is much lower than that. They made \$90 million on \$180 million, a 50 per cent capital gain, plus 25 per cent annually. This is after seven years of rent review. They never went to rent review. There were seven years of statutory increases: six per cent, eight per cent, eight per cent and then six per cent. They just proved the case that the tenants have always argued, that you can make money, increasing returns under the statutory limit.

In my view, and it is a bit of moot point in terms of this debate, the reason they got out was that they were a big development company and while this rate of return is reasonable according to everybody's concept of reasonable, they could make a higher rate of return in other activities because they were a big company and their capital was mobile. By selling and getting \$270 million, they could actually expect to make more than 25 per cent.

I do not particularly object to them making more than 25 per cent, but I object to our using that as the criterion for whether a rate of return is reasonable, a criterion for the rate of return necessary to induce developers to invest in affordable housing. It demonstrates the kinds of limits. What that limit defines is the rents that are required to attract developers back into the market. Once we get that number, you say to yourself, "Why should rents be 25 per cent higher to get a product where in the first instance there is very little income because of the leverage factors they have put into it, and there is no demonstrated superiority in the economic efficiency of operation?"

This is a very important case study, something that is worth looking at because not only did they make a good dollar but also they were generally considered to be the best landlords in Metro; that is, they kept very high-quality buildings that were well staffed, and everybody was happy to live

there when Cadillac Fairview ran them. This is seven years post-rent revenue. I do not think there is any reason on earth why under the current Residential Tenancies Act this kind of phenomenon could not continue.

22:00

I can tell you through casual empiricism, being a member of the municipal council that represents an area that is 70 per cent tenant--when I say "casual empiricism," I mean that a year ago I knocked on thousands of apartment building doors in my ward to get re-elected, and the casual empiricism was striking to me. Buildings that in the previous election were run down were all of a sudden shiny, and I asked, "How is that possible under rent review?" It was possible simply by a change in landlord. One landlord took a particular strategy to his investment and another took a different strategy altogether. It was the same building, no dramatic increase in rent but an improved circumstance.

It seems to me that implies quite a different impact of the Residential Tenancies Act and quite a different direction for policy. The real problem with the debate that has gone on thus far, and continues to go on in the press and presumably will go on in the House, is that we are really not talking the same language. This goes back to my original point that if you depend purely on landlords who are there to make an income out of their property, you have a problem. You have a bias that is ideological and dogmatic to begin with and there is a problem in actually achieving the desired results. Witness Cadillac Fairview.

The real problem is that when landlords come here they are talking about their investment. They are saying, "I have an investment and I want to get a reasonable return on it or a competitive return as against other things." If it is Cadillac Fairview, the return is against shopping centres in Arizona or whatever else. That is what is going to keep them in the business. As a corollary of that, a second stage, they are talking about housing. The issue of affordable housing really does not enter into it. As long as somebody can afford their housing, they are prepared to supply that housing.

The problem--and I am sorry Mr. Taylor is not here--is that from their point of view the vast majority of people, the statistically significant population, are interested in owning their own homes. It is a cultural imperative. One of the positive effects of rent review is that more people have been able to own their homes than otherwise would have been the case. My evidence to demonstrate this is the fact that the new housing market has taken off as never before. It has taken off because people are paying rents they can afford. They save a bit of money and, as soon as they can, they go into a home.

In rental accommodation, you end up with the people who cannot afford to own their own homes and a group of people who do not want to, but not a huge number of people, although it is a group of people whose options should be protected. People should be able to choose to live in a decent place without having to own, but I do not think they represent the majority of people in rental housing. The majority of people in rental housing would still like to own their homes. The reason the private sector cannot charge an economic rent that would sustain new construction is because the people who are going to go to rental housing cannot afford it.

Obviously, that means you have to fill the gap between what it costs to produce something, a unit of housing in real dollars today, and what people

who cannot afford to buy are willing or able to pay. That is an unavoidable fact of the housing market. The private sector cannot and will not solve it. It is simply a matter of rate of return on investment, as Cadillac demonstrates. You have to have at least a 25 per cent rate of return to have large developers. What that means is subsidy, in all probability, in one way or another.

That gets to the main point of the tenants' umbrella group's brief about nonprofit housing. It is interesting because the general allegation is that those pushing for nonprofit housing in the current housing market are the ones who have an ideological bent. I think it is quite the opposite, and you find that nonprofit housing has demonstrated its economic efficiency in terms of delivery. It is the only way you can deliver housing in significant volume with the minimum subsidy required. The obvious fact is you need subsidy to deliver affordable rental housing.

I will wrap up and let everybody go home. It is 10:05. My simple point is that tenants expected something, and that is what we should be comparing this existing bill to. We should not be comparing it to the Residential Tenancies Act before it had post-1976 buildings in it and without a rent registry. That is not a fair point of analysis. It is what tenants were promised. For some reason, this government has gone back to something that even the previous government did not cling to, and that is the notion that the private landlord will be the main engine for the provision of affordable rental housing.

I would like to say something about the issue of the private landlord and the configuration of the housing industry. When we speak of nonprofit housing, we do not mean that anything except the end user or owner, the landlord, is nonprofit. Everybody else in the chain, for the most part, is a privately owned corporation: the construction company, the contractors and often the developers, because much nonprofit housing is turnkey. Essentially, you end up with the end owner being nonprofit rather than private for-profit income driven, period.

The Acting Chairman: Alderman Martin, thank you very much for your presentation. My friend Mr. Gordon would like to ask you some penetrating questions.

Mr. Gordon: Maybe we could stay here all night while I do so.

The Acting Chairman: He will not ask you any penetrating questions after all.

Mr. Gordon: I just want to determine something, Alderman Martin. When you talk about subsidy, I take it you are talking about subsidy so that we can have nonprofit housing.

Alderman Martin: No.

Mr. Gordon: Or are you also talking about some form of subsidy to those tenants who cannot afford the housing they would like to have? Would you expand on that?

Alderman Martin: Okay. If you look at the history of the development of rental housing during the last decade, a subsidy in one form or another has been delivered to every producer, whether it was for a private landlord or for the nonprofit sector. Even today you have Renterprise and before that you had

convert to rent. You always have the accelerated capital cost allowance, where the building is depreciated more quickly than in reality. Before that you had soft cost and multiple-unit residential buildings.

There is a plethora of government programs that are all subsidy programs aimed at bridging the gap between what the ordinary market can afford and the economic rent, what it cost to produce the product. In the nonprofit sector it has tended during the past few years to be the federal program 56(1) or some variant of it, where the mortgage was essentially the way the subsidy occurred and you reduced the payments on the mortgage.

I personally do not believe you need to take that kind of approach to subsidize. There are probably other ways of manipulating mortgage instruments to subsidize. There is an experiment going on now or beginning with the federal government with what is called an indexed linked mortgage, where there is no net cost, or the presumption is comparatively little net cost, to the public sector.

Graduated payment mortgages would be another one in an inflation-free environment. Where the world is more predictable, you could do it by a graduated payment mortgage and have the same effect. But there are a variety of instruments available to deliver that recognize the fact that a conventionally financed rental unit delivered to the market cannot be afforded by the overwhelming majority of people who are seeking rental housing and there has to be a gap filled in.

You mentioned individual tenants. One of the suggestions has always been a rent supplement type of program. I personally do not favour that approach. I believe it essentially says to a landlord: "Charge your economic rent with your built-in rate of return. We will pay that plus the difference between delivering the unit to the market and what the person can afford." The more sensible way is to produce the stuff with nonprofit ownership at the end of the day.

I guess my message is that you cannot compete. The rental housing investment cannot compete with any other investment. The moment you try to make it compete, it becomes infinitely more expensive and impossible for people to afford. Therefore, nobody is going to be attracted; people's money is not going to be attracted to this investment. If we spend all our time trying to attract people's money to it, we are actually going to miss a range of pragmatic solutions to the housing crisis that are available today. This is something that has been recognized by other western countries but it seems both of the main North American countries, the United States and Canada, have been avoiding it.

Mr. Gordon: Using it as an illustration, would you agree that a tax break given to someone who uses the money to invest in housing is essentially a subsidy of the same kind as any other?

Alderman Martin: Absolutely.

Mr. Gordon: If I understand you correctly, what you are saying is not to get caught up in one type of subsidy. Recognize the end you are trying to achieve, which is housing for people who cannot afford the kinds of rents that come with housing built by the private sector at the upper end, let us say.

Alderman Martin: Yes.

Mr. Gordon: Therefore, we should look at all these various instruments and try to find those that best fit the circumstance and the times. Is that what you are saying?

Alderman Martin: Yes. I would say, let us figure out what the product is that we are trying to deliver to the market and what is the cheapest and most economically efficient way to do it. Let us make that judgement pragmatically, outside the environment which says, "let us figure out a way of keeping private money in," because I think the message you have probably gotten on this committee over the past number of weeks is that, notwithstanding this major transfer from tenants to landlords, the private sector is still not going to come in. The rate of return still is not high enough to attract significant investment dollars. So all you are doing is putting money into the pockets of people who have no intention of building houses, the existing landlords, for the most part.

Mr. Gordon: That was a very interesting and well-documented brief.

Alderman Martin: Thank you.

The Acting Chairman: Alderman Martin, thank you for coming.

Alderman Martin: It was a pleasure.

The Acting Chairman: Thank you for concluding our hearings on such a pleasant note. The committee will recommence at 10 a.m. on Tuesday, October 7. We will hear a briefing by the Ministry of Housing. Anybody who is interested in attending can drop by, including the committee.

The committee adjourned at 10:12 p.m.

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STANDING COMMITTEE ON RESOURCES DEVELOPMENT
RESIDENTIAL RENT REGULATION ACT
TUESDAY, OCTOBER 7, 1986
Morning Sitting



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From the Ministry of Housing:

Curling, Hon. A., Minister of Housing (Scarborough North L)

Church, G., Assistant Deputy Minister, Corporate Resources and

Building Industry Development

Laverty, P., Director, Rent Review Policy Branch

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON RESOURCES DEVELOPMENT

Tuesday, October 7, 1986

The committee met at 10:11 a.m. in room 101.

RESIDENTIAL RENT REGULATION ACT
(continued)

Consideration of Bill 51, An Act to provide for the Regulation of Rents charged for Rental Units in Residential Complexes.

The Acting Chairman (Mr. Warner): The meeting is called to order. I see a quorum. You have copies of the agenda. I am glad you have, because we are not going to follow it. The minister has asked permission to give a brief but exciting summary of the conclusion from his point of view. Is that accurate?

Hon. Mr. Curling: That is accurate. Even in anticipation, Cam is not feeling it too.

The Acting Chairman: I see.

Mr. Jackson: I came early so I would not miss it.

The Acting Chairman: Are there copies available for the members?

Hon. Mr. Curling: We can get copies, but the spoken word is always better.

The Acting Chairman: If you want to wait a minute, you have a good radio voice.

Mr. Jackson: I have always felt that was the career for you.

Interjections.

The Acting Chairman: The chair is at a loss to understand this. I have a document in front of me and I am not sure of the source of it.

Mr. Reville: We get these handed out by legislative research all the time. It is not unusual, Mr. Chairman.

The Acting Chairman: Is this provided by legislative research?

Mr. Reville: Yes.

The Acting Chairman: All right.

Mr. Reville: It is written by the Toronto--

The Acting Chairman: The floor is yours.

Hon. Mr. Curling: Thank you very much, Mr. Chairman, and welcome to the most exciting committee that we have had so far. I know you still add great resources to the committee.

Members of the committee, as these hearings into Bill 51 draw to a close, I would like to summarize my thoughts on the many presentations we have heard on this new legislation during the past few months.

Let me begin by saying I truly believe every member of this committee wants to see the establishment of the very best possible housing policy for Ontario. I am aware, too, that when considering some sections of the legislation, members of the committee have struggled, and really struggled, to find a way to be fair to both landlords and tenants; or, better still, to avoid being very unfair to one side or the other.

It has not been an easy task. Members of this committee have been listening for several weeks to exactly the same arguments my staff and I have been hearing for the past year. Put simply, these arguments about rent review are, for the most part, diametrically opposed.

We have heard from landlords, builders, developers and others whose bottom-line argument has been: Get rid of rent review and let the free market prevail.

At the same time, we have heard from tenant associations, social groups and legal clinics that have argued the opposite: that rent controls must be strengthened; in some cases, as suggested by many tenant groups, to the point where private ownership of housing would be completely eliminated in Ontario.

Mr. Reville: I have not heard anybody say that.

Hon. Mr. Curling: Rhetoric can be extreme. Fair legislation cannot afford to be.

Ms. E.-J. Smith: He means you, David.

Hon. Mr. Curling: I do not believe we can afford to favour any one group of vested interests in designing an improved system of rent review for this province. On the contrary, I believe it is the government's responsibility to put forward legislation which is fair and equitable; legislation which represents a compromise between competing points of view; legislation which balances the interests of both landlords and tenants.

Bill 51 is just such a balance. As such, it has been all too easy to criticize. When there is a compromise, nobody gets everything he wanted and everybody has an opportunity to criticize what he is required to give up as part of the mix.

However, Bill 51 has something going for it which no other piece of rent review legislation--or housing legislation for that matter--has ever had in the past. This legislation is the direct result of an agreement reached between the very people it affects: landlords and tenants.

The Rent Review Advisory Committee, composed of nine tenant advocates and nine landlord representatives, spent the better part of four months--thousands of hours--reaching agreement on the system of rent review detailed in Bill 51.

As everyone is well aware, the members of RRAC were not simply token representatives of landlords and tenants; far from it. In fact, they are among the most able and committed advocates in the province, drawn from Ontario's strongest landlord and tenant organizations. The balancing of interests

contained in Bill 51 is the balancing of interests called for by these advocates. I am not going to contradict them and I do not think the members of this committee should.

I have been strongly criticized for saying that in the past; for urging you not to tamper with the balancing of interests agreed to by the RRAC. But during the course of these hearings, I am not the only one who has been saying that. There was Pieter Greidanus of the Hamilton Apartment Owners' Association who said, "We applaud the efforts of the RRAC and trust that the standing committee on resources development will respect the balance that has been struck."

There was also Ken Hale of the Federation of Metro Tenants' Associations saying: "It was historic, actually having tenants go into the Minister of Housing's office to talk about their concerns. That has not happened in my lifetime."

There was also Keith Brooks of the Toronto Real Estate Board saying, "If landlords and tenants, by some miracle, were able to come to an agreement--and I do not know how this miracle came about, but it did actually happen--then I think this committee should respect their wishes."

There was University of Toronto economics professor Dr. Lawrence Smith, who said, "Another plus in the bill is the very process itself, the fact that two groups that were diametrically opposed at various times seem to have been able to agree on a number of issues and have brought forth a document."

Again, those are not my words; those are the words of a landlord, a tenant, a realtor and a noted economist. There were many more, all saying essentially the same thing: that the agreement reached by the RRAC is of historic significance and it provides a truly unique and very strong basis for this legislation; that it is a triumph of co-operation and compromise, which we should make very effort to respect.

You have heard from the members of RRAC--Bill Grenier, Mary Hogan, Glen Sifton, Robert Elms, Pilar Amaya-Torres, Jan Schwartz and others. All of them told you that the process of compromise produced an agreement that was less than each of them wanted, but that none of them was able to produce something better.

In all the time since then, I have yet to hear anyone else propose a more balanced system. The solutions you have heard from the extremes call for a totally unfettered market or call for totally socialized housing. These solutions are no solutions at all.

10:20

Much has been made during these hearings of the fact that this is a complex piece of legislation. However, the principles of this bill are very simple. They are: the extension of rent review to cover all rental units in Ontario; a rent review guideline which changes each year with inflation; a provision for a return on investment to stimulate the construction of new units; the creation of a rent registry to eliminate illegal rents in the province; the creation of a new maintenance board to set minimum standards for the operation of rental housing, and a streamlined system of rent review, making the entire process faster and easier for everyone.

The legislation itself is detailed because we want it to be precise to

ensure fairness in our administration of the act and, crucially, to ensure that it happens within the balance agreed to by the Rent Review Advisory Committee. To be sure, the system we propose is a new beginning. You cannot cure 10 years of disease with one shot of penicillin.

As Kathryn Catlin of Hamilton warned us, "You would be very naïve and ignorant to believe you could repair 10 years of disaster in a few short months." At the same time, numerous tenant groups warned us that rent review had meant nothing more to them than "10 years of broken promises."

We have experienced a serious erosion of our housing stock. There has been inadequate tenant protection and inadequate maintenance. We have had a royal commission which has cost millions of dollars. As a result, we have had a continuing decline in the confidence of both landlords and tenants.

This last point, I believe, is the crux of the matter. We must begin with this legislation to make faith with the tenants and to make faith with the landlords. We cannot afford to have rent review policies that continue to use and disabuse the tenants and landlords of Ontario for short-term political purposes. We must restore the confidence of landlords and tenants, and future landlords and tenants, with this legislation. As Michael Nairne of the Association of Canadian Real Estate Syndicators told us:

"The truth of the matter is that the bill, if passed as set forth in the RRAC agreement, will begin to create certainty. The bogymen in the closet is more frightening than when you open the door and look and say, 'My God, it was just my jacket hanging there.'"

There is no doubt in my mind that the passage of Bill 51 will create conditions for a climate of confidence in the marketplace. This will trigger the construction of new rental housing which is so desperately needed in this province. Let me remind you of some of the remarks made by builders and developers on this issue.

"Our association believes that new supply additions will come back into this marketplace and we will begin to rebuild a real role for the private sector in Ontario's residential rental economy."

"Bill 51 will begin the process of creating supply. Investors are looking for a signal from this government that there is a role for private industry in the residential rental sector. Passage of this bill in a form that reflects the RRAC agreement is that signal."

"The passage of Bill 51, plus a firm, irrevocable commitment that we are entitled to a fair return for our labour and investments, would entice us back into building rental accommodation."

"If we can see a strong feeling from the Legislature, I would be out the door next year looking for land and building."

"If many of the clauses in the bill are believed to continue into the future, if they actually stay in place for some time and are not changed, the bill should stimulate new construction."

"Bill 51 may also enable today's builders to reconsider their investment opportunities and return to the construction of residential rental accommodation and end the crisis."

"I think we can make the case that the passage of the bill in a form that balances the needs of the investors with that of the tenant will, over the medium term, begin to reinitiate and rebuild confidence, and confidence builds units."

Those have been the comments of builders. Those comments are made all the more remarkable given that we have been asking developers to make a commitment to build before we are willing to make any kind of commitment to them. Bill 51 is our commitment to them. They have gone as far as they can in committing to build. Now we have a commitment to them to pass Bill 51.

Yet, with all this new construction pledged to begin under Bill 51, a strong criticism has remained in regard to the supply side. It has been pointed out time and time again that new construction will all occur at the top end, providing new units for tenants who do not require assistance. As such, it has been argued repeatedly that Bill 51 does nothing to deal with the affordability issue, the need for more low-cost housing.

I have said it before and I will say it again: Bill 51 is not designed to be a catch-all piece of legislation solving every single housing problem in Ontario. It is intended to maintain affordable rents, but it cannot and should not be expected to solve all the problems faced by low-income people.

Let me state my position on affordability once again. I believe it is the government's responsibility to supply housing for those who cannot afford it. I have a deep concern for the poor, the homeless, the roomers, the boarders and all of those less fortunate than us. I know all committee members have that deep concern too.

Let me tell you what we have done for this sector of society. In this year alone we have made commitments to help generate the construction of almost 16,000 new low- and moderate-income rental apartments. That is the highest total reached by the Ministry of Housing in the history of Ontario. The units will be built in some 300 communities. More than 50 per cent of the new units will be allocated to the most needy households, with rents geared to income.

Yesterday I announced the commitment of an additional 3,000 nonprofit units over and above the record number committed already. This allocation corresponds directly to the recommendations of the Rent Review Advisory Committee that the need for additional low-income units be addressed as soon as possible. This special allocation of units stems from my announcement in April that we would be examining the low-cost housing situation in Ontario and, if the need was evident, we would roll forward our nonprofit commitments from future years. The need has been shown, we have examined it and now we have addressed it with an additional allocation.

Again, particular emphasis will be placed on serving the neediest in our society with this special allocation of units. We want to target the hard-to-house, the homeless, battered spouses, handicapped persons and low-income singles. As I have said before, we are pledged to solve the housing problems of this province and our supply programs for the needy go hand in hand with our rent review legislation.

The government will fulfil its commitment to house the needy through its supply programs. The private sector, reassured by Bill 51, will build for the remainder of Ontario.

We have a choice with our system of rent review in Ontario. We can choose to proceed the way of other jurisdictions or we can follow a new, made-in-Ontario route. I do not want a rent review system that forces landlords to walk away from their buildings, leaving behind rotting hulks that provide the breeding ground for the worst kind of human misery. Nor do I want a system of rent review based on rampant commercialism that allows tenants to be ripped off in the most blatant manner imaginable. We must find a solution for Ontario that avoids these extremes, a solution where landlords and tenants can coexist under a system of rent review that balances their interests.

I firmly believe that Bill 51, based on an unprecedented accord between landlords and tenants, provides Ontario with a rent review system that is new, unique and, most important of all, fair.

I wish to thank you, Mr. Chairman and members of the committee, for allowing me this opportunity to summarize my position on this very important piece of legislation. Staff from my ministry will now spend some time with the committee in detailing the amendments to the legislation that have resulted from meetings with the RRAC committee. I point out as well that the RRAC is continuing to meet to work out details of the maintenance standards board. When I have received their report, the appropriate amendments will be brought forward to this committee.

10:30

Let me now introduce Louise Stratford, our senior solicitor for the rent review division, and Pat Laverty, director of the rent review policy branch, who will take the committee through the amendments, if that is your wish.

The Acting Chairman: I expect members may wish to respond to the nonprovocative presentation that has been made by the minister. I remind members that you have an agenda, which is already half an hour behind. Members may wish to consider that when they make their remarks. How about entertaining a few moments of remarks in response to the minister's statement? Then let us see whether we can get on with our agenda.

Mr. Jackson: I am somewhat disappointed and disheartened by the statement the minister has just read to us. It is apparent that he has summarized what he feels occurred, but as one member of the committee who has had occasion to tour and travel in every city in which the standing committee on resources development listened to public input, I came away with an entirely different feeling from the one held by the minister.

What is at the core of this is that we have for the first time in Ontario's history seen the Ministry of Housing under its present minister abdicate its essential role and responsibility to set the guidelines for future housing and meet the needs especially of our low-income and modest-income residents. He has effectively--and in his own mind calls it quite brilliant--this notion of getting all the other parties to the agreement to come together to decide government policy.

Virtually every editorial in Ontario has indicated that permanent rent controls are not the route to saving our housing industry; yet today I read that the star shines even more brightly on this new government in spite of the most compelling arguments that have presented themselves around the province. Concerning the first bill, which came in 1975, you had an appropriate footnote to it that the New Democratic Party manoeuvred the Tories into temporary

measures. Now, 11 years later in 1986, we have a new footnote to this Bill 51 that the Liberals have effectively manoeuvred the landlords into accepting permanent rent control.

Yet what the minister calls consultation we heard virtually every landlord in Ontario say was a loaded gun to his head; that it would not work, but if the government thinks it will work, who are we to argue? It would be another example of the Liberals' abuse of power. Landlords were sitting in the shadow of what had happened to Ontario's pharmacists and doctors, and landlords should not think they would be any different.

We have tenants and landlords now setting policy for the municipalities. The minister did not give an adequate response to whether the municipalities of this province had been consulted on the very sensitive and important matter of minimum standards. We received only one input in the public hearing process; so it is apparent that the Association of Municipalities of Ontario was not notified in sufficient time. As one member, I would be quite reluctant to finalize this bill until we have received fair and full representation from the members of AMO because of the significant financial impact, let alone the process and time line impact, that the maintenance standards board will have in all communities in this province.

We know this bill will, in some areas, protect tenants' rights, and there will be limited argument against those objectives. But we can also agree that this bill will increase rents significantly throughout the province and that tenants may not be fully aware that they should be poised to pay additional dollars.

I caution the minister not to overdo his belief system about how supply will increase for this province as a result of this bill. On the second day of hearings his own assistant deputy minister advised, and downplayed the minister's statements of the previous day, with respect to how effective this bill will be regarding supply. If the minister starts building housing units in his mind, many of us in this province will be making sure that he does not move in.

I would also like to put on record that it is unfortunate we did not discuss shelter allowance. If we agree that rents will increase significantly, where are we going to cushion the impact for our senior citizens and those on fixed incomes? Statements about additional units are not the answer. The minister even referred to someone going out in his car and looking for land himself. Those units will not be built for three years, and we have tenants who will experience significant rent increases within the next 12 months. How are we going to deal with them?

On a final note, I would like to indicate that it is unfortunate, when five or six provinces in this country are all seeking a solution on regional or total deregulation and actively pursuing those courses of action, Ontario by this bill puts itself squarely in the forefront, just behind Newfoundland, when it completely eliminates any exemptions for high-end units in this province.

Mr. Reville: I want to start by saying I share with Mr. Jackson a profound disappointment and a very sad disheartenment that after 49 days, six cities and 181 briefs, all the minister can do today is come in and deliver 33 pages of overheated rhetoric, shopworn political pap, cheap shots and elastic truth.

This committee has learned a great deal in the 49 days. I do not recall a process I have been through in the time I have been in this Legislature, which is not long, but we have been involved in some very heavy processes--and Mr. Jackson has shared some of them with me--where there was not a considerable amount of movement between the time we started and the time we finished.

I can think of Bill 30 as a good example of that. The committee, including the government, modified its positions because of what it heard when it went through the democratic process of hearing from citizens. I am as depressed as can be that this process seems to have had no effect at all on the government, whereas it has had quite a lot of effect on the New Democrats and, I am sure, on the Progressive Conservatives. Interestingly enough, the Toronto Star makes the point that Bill 51 is a necessary step to the end of rent controls. I would be depressed if the minister shares that view.

On page 3 of the document, the minister's speechwriter goes as far as to suggest that many tenant groups recommended the elimination of private ownership. Within the limits prescribed by parliamentary behaviour, that statement verges on the outrageous. Not one tenant group came before us and said it thought private ownership should be eliminated. It is a shocking thing that you have twice included that kind of talk in making this speech dramatic. No one suggested there would not be private ownership, nor did anyone suggest that the 1.1 million units currently in private ownership should somehow be taken over by the state. That really is shocking. You can do better than that, Minister.

A lot of pages are devoted to the delicate balance. The committee has heard so much about the delicate balance we all begin to feel like lacemakers around here. I have not heard support of something called "delicate balance" fleshed out more than it has been by the minister and the Fair Rental Policy Organization of Ontario; we do not need to be reminded of that. We might want to be reminded, though, that Keith Brooks of the Toronto Real Estate Board concluded his remarks by saying, "Let us get rid of this damned rent control." So much for your delicate balance.

10:40

Mr. Bernier: Are you in favour of it?

Mr. Reville: Getting rid of rent control? Absolutely not.

You talked about the disaster of the past 10 years. I should point out that you cannot spell "penicillin."

There has been a lot of talk about the political opportunism of rent controls and, frankly, it makes me feel somewhat ill. It is unfair to take shots at the Conservative government for bringing in rent control in 1975. It is totally legitimate to take shots at it for not putting in a complete rent control system, because I do not believe you can have rent control unless you have a rent registry, for instance. There is no point in regulating prices unless you publish a price list. I am sorry that did not happen, but to take eternal shots at a previous government is not relevant and is inappropriate. You are in charge of the government now. If you do not think it is fair, if you do not think it is right, fix it.

The dilemma of the past 10 years was that there was virtually no provincial supply program. There still is not an adequate supply program.

The other thing that seems to have been missed in all this is that even wealthy tenants deserve protection. I will repeat that, because it might sound astounding for a New Democrat to say that even wealthy tenants deserve protection. The reason I say that is that your home is so important for the rest of your life that unless there is a system whereby the increase in the cost of your home is regulated, you are at the mercy of a landlord. Whether you earn \$50,000 a year or \$100,000 a year, if you have chosen to be a tenant, you deserve to be protected from sudden changes in the thing that is most important to your life, that is, where you live.

The minister has been out speaking to the homeless. He was out yesterday at All Saints Church. I am glad he was there. The most disruptive thing to one's career path--and I do not mean to be flip about this--is to lose one's housing entirely. If you have talked to the homeless, as I have and as I know you have, they will tell you that their lack of a home affects every part of the rest of their lives.

They cannot get work, because nobody can call them up to ask them to come in. The same is true whether you have \$2 or \$100,000. If you do not have a place to hang your hat, you are in big trouble. That is why rent review is important for the wealthy as well as for the poor.

Mr. Chairman, I see that in spite of your delight at my speech, you are getting a bit impatient. My last point may be the most important point. Bill 51, with its flaws, still should be directed to one basic thing: a consumer protection kind of approach to the housing situation. It has been consistently mixed up with the question of supply, not only by the government but also by many of the deputants who have been before us.

Obviously, the builders will say to us that they will build under Bill 51. They like Bill 51 better than Bill 78; they like Bill 51 better than what the accord would have delivered. I want you to think about it for a second. Some of them say, "I will be out the door tomorrow looking for land." Where the hell were they between 1975 and 1986, when there was no rent control on new construction and when anybody who had any brains would have predicted that the Conservatives would have been in power until the end of time in this province?

They did not build. The reason they did not build is complex, but it was not rent review that made them not build. It was a combination of the price of land, the price of renting money and the fact that you can get a better return--and it is still true today in 1986--on a lot of other investments. You are not going to get the kind of return on building rental accommodation that you can get on building commercial property or industrial parks in California. Until the government realizes this, it is going to be on the wrong track.

Thank you for your tolerance, Mr. Chairman. I will end by saying I expected something a lot better than that this morning.

The Acting Chairman: You are right. "Outrageous" is parliamentary. Penicillin is spelled "in."

Mr. Gordon: As the Housing critic, I would like to make a few remarks.

The Acting Chairman: Just a minute. The chair is willing to be flexible. However, you folks set out the schedule. You wanted a briefing from the Ministry of Housing and there are two folks here who are prepared to give you that briefing. If you feel compelled to make remarks, can I ask you to at least make them brief?

Mr. Gordon: Mr. Chairman, we have sat here for many weeks now, mornings, afternoons and evenings, and we are not prepared to have you come here and tell us we are not going to be able to talk about this bill. You have not been the chairman of this committee and you do not know what has been going on. I advise you to desist from those kinds of remarks.

First, what is this bill? It certainly is not a supply bill. It has been made clear to us by the various deputants and witnesses who have come before this committee that this bill is not going to do one darned thing for supply in this province. If it is not a supply bill, what is it? Is it an affordable housing bill? If you talk to the tenants in this province, they will tell you it is not an affordable housing bill, that it increases their rents.

What is it then? Some people might say it has been a charade, a charade that was underlined when the minister, with his ministry's help, came out with a news release saying tenants in Ontario were going to save anywhere between \$30 million and \$60 million a year in rents, which we saw through as patently untrue. It was a document that only a chartered accountant could understand. Even when the chartered accountants looked at it, they said it was based on so many assumptions that it was a document that could not be trusted or believed.

Then we have Mr. Grenier and his cohorts from the Fair Rental Policy Organization of Ontario come in and tell us that with the kinds of moneys that are going to be realized by landlords in this province when this bill is passed, if it is passed, they could look at realizing enough money to build 3,000 units in the province. If we believe the developers would build 3,000 high-end units in this province, you can be sure the per unit cost will be significant. Even taken a modest per unit cost, we are talking about \$180 million to \$190 million.

What does this do for affordability? What does this do for supply? I think any layman out there in the public knows darned well that any high-end units that are built will be moved into by people with two incomes, who are choosing to rent because they do not want to buy a condominium, and they are not going to buy a single-family home or detached home. How many units will you really have being rented and built under this new system? Very few. Make no mistake about it; this bill does nothing for supply. This bill does not do anything for affordability. It is a disappointment.

If this government were really sincere, it would have done something for the tenants of this province without mixing it into this bill. They could have gone out and put in a rent registry. I do not think there is any party that sits in this Legislature at present that would have objected to a bill coming in with a rent registry, but no, he did not do that. We have had this business about this great accord that has existed between tenants and landlords in this province.

If you go out and talk, for example, to the small landlords in this province who do not understand what is going on with this bill, they are going to be mighty upset when they find out what a maintenance standards board means. How much have they been consulted? Do the small landlords in this province have a special organization? No, they do not.

10:50

Why do you not confess and tell us the truth? The truth is that the deal that has been made is going to help the people who invested in multiple-unit residential buildings. That is what it is going to do. This bill does nothing for supplier affordability, and the trickle-down theory just does not work. As far as the Renterprise program is concerned, if you get on the phone and call all those developers who said they were interested in the program, you will find that a lot of them still have not made up their minds whether they are going to go ahead with it.

Where is the real leadership in housing in this province from this minister? We have a major crisis in this province. We have never seen such a crisis in this province with regard to housing, but what is this government doing? They are bringing in a bill that is going to raise rents and they are mixing it in with consumer protection, hoping that in the final analysis the other parties will support it because they believe that if they do not support it, the consumer protection will be lost to the tenants. It is a big disappointment.

Mr. Taylor: It is always nice to follow Mr. Gordon, who wears silk gloves. He is very kind to the minister and to the chairman especially.

I enjoyed the rhetoric of Mr. Reville, more so than that of the minister. I say that without trying to embarrass the minister, but I thought Mr. Reville's rhetoric was a little better. The minister's statement came as a bit of a surprise; it was not on the agenda. Frankly, I do not think we are adding very much in debating a crass piece of political propaganda, but it has been delivered, and the minister now is suffering the response from the members of the committee.

With respect, what I have seen here are tenants who have been institutionalized and landlords who have been institutionalized. You have had a meeting of those two institutions, which has resulted in Bill 51, which does not manifest the thinking of the tenants or the thinking of the landlords. At one stage I asked, "Who is this to please?" It reminds me of a political emergence theory. You take the element of oxygen and the element of hydrogen, two gases with their own characteristics, put them together and you get water, something entirely different from either element that combines to result in water. We have here that kind of legislation, which in my view will assist the landlords.

There is a suggestion that it will create an environment within which there may be some room for the marketplace to operate. In so far as the marketplace can operate within the parameters or framework of this legislation, you are going to have the legislation supported by the landlords and possibly by some of the tenants. We have had tenant groups here who actually were not all that enamoured with a system that plays off the landlord against the tenant, that polarizes the prejudices of the two people, landlord and tenant, that causes confrontation and ill will and that often results in premises so poorly maintained that the only more effective way of destroying that accommodation would be to drop a bomb on it. We have had that type of thinking from tenants as well.

I have some concern in terms of the legislation truly representing the rank and file of landlords or tenants. There is no doubt that deep down inside the landlords feel it may be a beginning of the end of rent control. In so far as it improves their lot at present, then it is a good thing. From the tenants' point of view, I think they are a little more gun shy; I think they see an immediate increase in the rents they are going to pay. From that point of view, I sincerely believe there is a real concern on the part of the tenant population of the province.

Minister, if you were to say here, "I happen to be the Minister of Housing for this province, and it is the policy of my government to create an environment in which there is ample opportunity for the private building sector to operate within the parameters of legislation that manifests my government's policy," then I would say to you that what you were demonstrating was leadership; you are really not reflecting the views of the tenants or of the landlords but discharging a policy of the Liberal government. I do not want to be cheeky in suggesting this, but I think you might be safer in taking the position of leadership than in rationalizing the contents of Bill 51 as a manifestation of the will of tenants or landlords. I sincerely believe that.

In many people's minds, the proposed legislation is probably better than the current legislation. In so far as that is so, presumably it will be embraced by a fairly wide segment of the population.

I do have my concerns in regard to the tenants. I am not an advocate of rent control; I am an advocate of the free market system. At the same time, it is a very difficult thing to phase yourself out of rent control; it is going to take time. It has taken us a decade to get into it, and it is probably going to take a decade to get out of it, where the market system can operate and where a sufficient supply of housing can be generated to make rent controls obsolete.

I have a very deep concern in terms of what is happening to the housing market. This legislation surely must address accommodation in every form. In single-family housing today, many young people are striving to buy their first home, with both husband and wife working, putting every nickel they can into housing and trying to pay off the mortgage, put a rug on the floor and pay for the television set; they are in these municipalities, many in the greater Metropolitan Toronto area, where houses are overpriced, you have shoddy workmanship and you have lack of inspection or adequate inspection. You have results that have been viewed only recently on television. I can see an escalating process. It is punitive pricing in terms of the poor public and the young couples who are striving to achieve home ownership.

We see that, and now this legislation is going to put an added burden on those municipalities in terms of standards and enforcement. I condemn the municipalities. They gouge in terms of imposts on the developers and builders which are simply passed on to the purchasers and factored into the mortgage, again at very high interest rates. What are they getting? They are not even getting adequate inspection of those houses.

I challenge each and every one of you, and you, Minister, to go and view some of the housing that is being put up in this province at exorbitant prices, and paid for by the sweat of hardworking, ordinary people who just want to own their own home. They want a little piece of Ontario. That is a part of the policy that should be looked at as well.

I make those observations, Mr. Chairman, and I am keeping them short at your request.

The Acting Chairman: Short.

Mr. Taylor: I want to welcome you here as our acting chairman. I do not want you to be unduly offended by our Housing critic's initial remarks. He is really a very decent guy.

The Acting Chairman: Is he?

Mr. Taylor: It was the temper of the moment that prompted him to ensure that he had adequate time to comment.

The Acting Chairman: I have heard rumours to that effect-- unsubstantiated, but rumours none the less. I appreciate your remarks.

Mrs. Caplan, perhaps you would like to have the floor.

Ms. Caplan: Thank you, Mr. Chairman, and I will attempt to be brief.

In the time I have served on this committee, I have heard phrases such as "delicate balance" and "dynamic equilibrium," and I have heard unprecedented praise for the minister in bringing together groups of landlord leadership and tenant leadership--the landlord leadership which has been fighting for the past 10 years without any success to end rent control and the tenant leadership which has been fighting without much success for the past 10 years for greater tenant protection.

We have heard this morning from my colleagues on the extreme right discussing everything from deregulation to phasing out and abolition of rent controls and from my colleagues on the extreme left discussing total social housing and government-owned-and-occupied housing in the market.

I believe this bill is unprecedented. There has been acceptance by much of the landlord community and the tenant community. Everyone who has come before this committee has said it is not perfect and it is a step in the right direction. What is it a step in the right direction to? I suggest that what we have seen in this province over the past decade has been a war. We have seen a war between landlords and tenants; between people wanting a decent place to live and people feeling they are entitled to a fair rate of return on their investment.

The result of this war has been devastation. We have seen devastation on both sides. We have seen devastation on the landlord side, as we have heard from many deputations saying they are facing bankruptcy. We have seen devastation from those who are saying they will not build and the housing crisis will escalate. We have seen and heard of devastation from tenants who are saying they do not have a decent place to live; devastation in the housing market and in the homes they live in, where the maintenance has decreased and deteriorated over the years.

We have seen devastation in the housing supply in this province, and mostly we have seen devastation in confidence that there is any trust that the type of legislation that can be produced in this Legislature will assure tenants that they will have the protection they need in the future and that landlords will be treated fairly.

What we have heard is that there is little confidence in what has happened in the past and that there is great confidence in this minister and in the proposal that has come forward.

What has come forward? In a war, following the devastation, I have heard that Bill 51 is in effect a peace treaty. It is a treaty where both sides have come together after the battleground of the Residential Tenancy Commission--I say it was the battleground--with a peace treaty they say is a fair and reasonable compromise. I believe it is deserving of a chance.

It is not perfect. It was not framed and fomented by the minister, but it was framed. It was his great achievement, because he brought together the combatants in this war and said to them, "Sit down and tell us what you think is fair and reasonable and what will give you some security and confidence in the future."

We have heard that there will be supply if there is that confidence. We have heard that tenants want a stop to illegal rents; they want increased maintenance, decent places to live and they believe, by and large, that this bill gives them greater tenant protection than they have had in the past.

We have heard many things about what this bill is not; in fact, it is not many of the things we have heard, but it is only one part of the housing policy of the government.

We heard the minister state very clearly this morning that the government accepts responsibility to house those who are in need and to deal with the affordability problems. If this bill is scuttled because of what it is not, the committee will have done a great disservice to the tenants of the province and to their confidence that we are on the threshold of being able to extend to landlords, tenants and the people of the province an offer that if they bring forward a peace treaty, we the legislators will give peace a chance.

In my remarks today, I would like to categorize it that way. Let us stop the war, let us stop the devastation and let us give peace a chance. Bill 51 is a peace treaty, and I encourage everyone to support it as it has been presented by the Rent Review Advisory Committee. It is an opportunity that we as legislators cannot afford to allow partisan interests and partisan concerns to put asunder.

The Acting Chairman: Do any other members wish to contribute at this moment?

Mr. Bernier: I add my support to the members of our caucus in expressing my disappointment in the minister's statement and his wrapup of the hearings we have had across the province.

We heard a number of clichés, all supporting Bill 51 and the way it was drafted. My disappointment is that the bill--and we heard it in many communities--is a Toronto bill. "It is a Toronto problem that you are spreading across northern Ontario and other parts of the province. There is no need for this type of bill in other areas of the province." We heard that loud and clear. It is not reflected in your statement, sir.

With honesty, you have picked out the points of the various briefs that were suitable to you. You have failed to recognize the plea of the many small landlords of the province, some of whom came to the committee with tears in their eyes, screaming, hollering and begging for some consideration. There is some small hope in this bill, but you have failed to recognize their long-term concerns.

Many deputants offered suggestions on how the bill and the whole issue could be corrected and improved. You failed to recognize any of their

suggestions. Many of the tenants expressed to you and to the committee what the bill will do to their rents. They fully realize that the four per cent you promised during the election campaign is not here any more. You very skilfully moved around the four per cent and now you are up to 5.2 or 5.5 per cent. Many of the tenants told us it could be as high as 12 or 17 per cent next year. You have failed to recognize that.

I think a bit of a con job was done by your speechwriters. I hope it was your speechwriters and not you, because you are looking after your image and your ego, of course. They put the words in your mouth.

Hon. Mr. Curling: I take full responsibility for everything I say.

Mr. Taylor: Whether you want to or not.

Mr. Bernier: I would have hoped that you would have examined your comments a little more carefully.

11:10

There is a great deal of disappointment in your statement. My colleagues have pointed out that you have failed to recognize the cost of the bill to the municipalities. That was just glossed over.

You have raised false hopes among the tenants that this would be a be-all and end-all to their problems. You have raised false hopes with those people who require affordable housing. As my colleague the Housing critic has pointed out, it will do nothing to add to the units required, particularly in this city. We see that, we have heard it from so many people, but you chose to ignore all those statements.

There are the false hopes of the landlords. Many of them have said to us: "It is an 18-month stopgap; it is not long term. We will live with it for 18 months. We have been conned. We have been brought in together. We have been embraced." I think they have been hoodwinked, quite frankly, into sitting down and working out a short-term solution that will see them get a little extra in the next year.

In closing, I want to join my colleagues in expressing disappointment at the lack of the leadership we expected from you as a party sitting in the wings for 40-odd years and one that had all the answers to all these problems. You come forward now with a piece of legislation that was made by the tenants and landlords and not by this government or by the party that now leads the government. There is a definite lack of leadership.

Mr. Cordiano: I feel compelled to make a few short remarks. I want to echo what my colleague Ms. Caplan has said. As she so eloquently put it, we have witnessed a war over the years. I recall campaigning in my riding and I have gone out to visit tenants since the May 2 election. We have seen a devastation and a deterioration of accommodation. As my colleague across the way has put it, I can relate to what has happened in Toronto. I have travelled with the committee across the province. We have heard the same thing in other places. There has been a deterioration of accommodation throughout the province; it is not just a Toronto problem.

With regard to what tenants actually want in this bill, tenants have come before us and said, "We are paying all this money and we are not getting the kind of accommodation that we perceive to be our right after having paid

our rent." Landlords have come before us saying, "We have tried to keep maintenance up, but we just cannot keep up with costs." We have these opposing views. The guideline tries to be fair and reasonable to both sides and to suggest that we do need maintenance in these buildings and that tenants have a right to an affordable place to live that is well maintained. How do we bridge the gap between those two opposing views?

There has been a lot of cynicism towards the government over the years. This cynicism stems from the point of view that tenants are unhappy with the buildings in they live in and landlords are unhappy about the fact that they are certainly not getting a fair return. The guideline, as I said, tries to bridge the gap between those two points of view.

The guideline is a compromise, and I refer to that as an important feature of the bill because I believe tenants want maintenance to be kept up in their buildings and that is an essential feature of this bill as far as I am concerned.

Another essential point is the rent registry. This is a consumer protection bill, and that is what we are talking about here. In addition to that, we are building confidence out there among tenants and landlords. We have seen the seed of that confidence, and that can grow and blossom, but we have to give this bill an opportunity to do that. I am reaching out to members of the opposition and saying this is the first step towards building confidence on both sides.

As I have said, there has been a lot of cynicism over the years. We have heard from tenants who have gone before the Residential Tenancy Commission and had whopping increases granted over the years. This bill attempts to streamline the process and to set down some guidelines with regard to the kinds of increases that can be achieved by going through the rent review process. It allows for an initial step to be taken, which in all likelihood--and I am very hopeful of this--will not result in the increased numbers of hearings that we have seen before the Residential Tenancy Commission. That is the administrative review, which I believe will work.

If we give this bill an opportunity, we are sharing the confidence we have seen displayed before us by tenants and by landlords.

The Acting Chairman: Since we have run the gamut from outrageous to peace agreement, going through the amendments should be a piece of cake. I understand the committee has agreed that, with the assistance of two people from the Ministry of Housing, we are going to go through the amendments to the bill, which we now have printed before us, but we are not voting on those amendments. Is that correct? I want to make sure there is an understanding before we start.

Mr. Jackson: That is right.

The Acting Chairman: Not necessarily a consensus, but at least an understanding.

Ms. E. J. Smith: It was definitely the understanding that we would not get into the voting until after the House resumes.

The Acting Chairman: If it is agreeable to the committee, I ask that the two people, Louise Stratford and Pat Laverty, be seated at the table here and that as you go through this, every member feel welcome to ask questions about each amendment as we go through them.

Hon. Mr. Curling: We ask to stand down sections 14 and 15 until we get the report in regard to the maintenance board. I am expecting it very soon.

The Acting Chairman: Is that agreeable to the committee?

Mr. Jackson: Why are we standing down an explanation? I understand the process of standing down, but we are not voting on anything.

Hon. Mr. Curling: We are not voting, but could we discuss it later, after I get the report from the RRAC about the maintenance board?

Ms. Caplan: Would you have any objection if we discussed that today when we get to clause-by-clause? One hopes that by then we will have the report.

The Acting Chairman: There may be more changes.

Hon. Mr. Curling: That is correct. That is fine.

The Acting Chairman: I would feel more comfortable if we went through and discussed everything as it is printed. If there are changes at a later stage, that is another matter.

Mr. Taylor: Can it be clarified for the committee whether each and every one of these amendments has been discussed by the RRAC and agreed upon by the landlords and tenants on that committee?

The Acting Chairman: The changes that are indicated in here?

Mr. Taylor: I surmise that with this delicate balance, which I put in parentheses, both the landlords and tenants, as represented on that committee, have been critically involved in every aspect of the legislation. It is important for me to know whether the amendments that are being advanced have been vetted by and obtained the concurrence of that committee.

I surmise that is the process you are going through and the reason sections 14 and 15 may not be ready for discussion. However, if you are dealing with a piece of legislation which, as you have many times indicated, should not be tampered with too much because of that delicate balance, it is important for us to know whether these amendments have obtained the concurrence of that committee.

11:20

The Acting Chairman: That is a good question.

Hon. Mr. Curling: That is the point I was making. They have been passed by RRAC in its entirety. Sections 14 and 15 are in the position you have just discussed; they have not yet made their final comments.

The Acting Chairman: Everything else has come through this committee.

Hon. Mr. Curling: Yes. I do not know if the staff want to comment any more.

Mr. Church: In answer to Mr. Taylor's question, perhaps it would help just to describe the very process that did take place. In fact, the RRAC committee did compose a group of two or three people, I believe, who worked

with our staff in actually drawing up the proposed amendments to bring the bill closer to the RRAC agreement. Whenever there were any issues of dispute, they were taken back to the individual caucuses of RRAC. I believe it is fair to say that all of these amendments have gone through that process.

Mr. Laverty: Yes. Indeed, Mr. Taylor anticipated part of my lead-in remarks in terms of how the process operated. I certainly intended to address that.

The Acting Chairman: Would the committee prefer a more elaborate explanation from the staff with respect to the process before you start in to the actual amendments?

Mr. Laverty: Mr. Chairman, I intend to do so.

Mr. Bernier: We are going to hear now how the process is going to work?

Mr. Laverty: Yes.

Mr. Chairman, I have agreed that I will make this presentation and that she will correct my mistakes. Before discussing each of the amendments, I should say a few words about the process involved in their drafting.

As members are aware, as initially drafted, Bill 51 did not capture fully the RRAC agreement. The major changes proposed in these amendments will serve to eliminate most of these differences. In addition, both internal civil service review of the legislation and external reviews indicated technical problems in the draft legislation. We have corrected for these as well.

All of the amendments to be discussed today have been referred to the legislation subcommittee of the Rent Review Advisory Committee for approval. This subcommittee involved Katherine Laird, a tenant advocate, and Peter Libman, representing landlords. They, in turn, were to consult with their respective caucuses of the Rent Review Advisory Committee to ensure general approval. Matters of dispute were occasionally referred to the main Rent Review Advisory Committee for discussion and resolution. Therefore, all of the amendments have been considered by a RRAC process. As you are aware, RRAC is a dynamic process. As the minister has already suggested, further advice will be forthcoming on some issues, most notably the maintenance board.

With these preliminary comments out of the way, I am prepared to proceed with each of the amendments.

The Acting Chairman: Do members have any questions?

Mr. Reville: I have one. On further advice on the maintenance board, I wonder if Dr. Laverty can help us with some time lines on this. We are hurtling towards a decision point in the Legislature. Maybe some people do not feel as though we are hurtling, but we are going to get there. It seems to me we need this further advice before we do.

Mr. Laverty: The matter of the maintenance board has been the subject of several meetings over the past few weeks and will be the subject of another meeting tonight. I can advise the members that very substantial progress is being made. Obviously, it would be inappropriate for me to discuss the content of that progress--

Mr. Reville: I do not want you to do that. I want some time line. Are we going to get it by next Wednesday when we start clause-by-clause?

Mr. Lavery: That is a forecast of the future. It depends on the members of the two sides of the committee. We are certainly hopeful. The committee has in the past done amazing things in a short period of time.

Mr. Reville: It is time to go away for the weekend.

The Acting Chairman: The answer is no.

Mr. Gordon: Considering the complexity of this bill and all the changes you are suggesting, I think we should see the guidelines that are going to flow out of this bill, the kinds of regulations and so forth that you are going to be pursuing as a ministry and as the minister. I wonder when we can expect to see these guidelines.

Mr. Lavery: I take it by "guidelines" you refer to the regulations under the act.

Mr. Gordon: Sometimes you call them guidelines; sometimes you call them regulations.

Mr. Lavery: Yes.

Mr. Gordon: Where are they?

Mr. Lavery: In terms of drafting, some of the regulations are now complete, although no entire sections are complete. There are a few issues in each area that still have to be resolved. As you are aware, the regulation drafting process also involves our advisory committee. We continue to meet once or twice a week towards that end. I would think in many cases we would be at a point where we would know with some certainty on individual sections exactly how we propose to implement them.

Mr. Gordon: It would be helpful to the members of this committee if we could see, as we get to the end of a section, the regulations that impinge on that section and on those particular clauses. This is something we have to have. This is a very complex bill and I would not feel right as a legislator in passing on to the next section without having seen the regulations.

The Acting Chairman: I am certainly aware that it is a normal request from opposition members to see regulations with respect to legislation. I thought the committee wanted to go through the new sections that are added, the amendments, and have some discussion on them without voting on them. When you have completed that process, you are going on to the next stage. It may be more appropriate at the next stage, on the basis of what Mr. Lavery has said with respect to the preparation of these, to come back to the question of regulations.

Mr. Reville: It is more complex than that. All along we have been advised that the Rent Review Advisory Committee was struggling with this question of maintenance. It is substantive. It is not a question of ministerial prerogatives and powers; it is very substantive. Members of the opposition have from day one requested some indication of when we were going to see all this work that has been unfolding, and it goes to the very heart of the matter.

The Acting Chairman: I am sorry. Mr. Gordon, I misunderstood. I thought you were talking about the entire bill. You are referring specifically to the section on maintenance.

Mr. Gordon: Not only the section on maintenance. I am referring to the fact that regulations are drawn up that are, you might say, the additional teeth of any bill and they are put forward for cabinet to peruse and to pass. This committee should be able to see those regulations, to be able to see what is being planned with regard to a complex bill such as this. Of course, it impinges on maintenance and on other things as well, such as the rent registry.

The Acting Chairman: Ms. Smith has been waiting patiently.

Ms. E. J. Smith: We have a tremendous amount of work to do here. I have done some looking ahead, as I am sure many members have, at what we have ahead of us. I hope that what you are intending--and I ask you as chairman--is that the process we are into now? We have agreed we are not going to vote clause by clause now. I hope we are not going to duplicate the pre-voting discussion clause by clause now, because that will simply bog us down.

It is my hope that what we do now is hear from the ministry so that we understand what the intention of these amendments is and that any in-between discussion of them will be done when we do the clause-by-clause. Otherwise, if we do everything leading up to the voting and do not vote, we will just repeat it all in two weeks. There is too much work to do to waste time. We all need to work at understanding this now and do our discussing later. I hope everyone is agreeing to that.

11:30

The Acting Chairman: I am aware that the committee has expressed a desire to see all the regulations that pertain to this piece of legislation. Members will be aware that there is no obligation for the government to reveal that information. Committee members will also be aware that there is a regulations committee.

I take it the minister has heard these remarks and there is nothing to prevent him from sharing that information with a committee or with any member of the Legislature. You might accomplish a bit more by systematically going through these. When you have completed the additions to the bill, one assumes that by that point whatever needs to be done to the maintenance section will be available prior to beginning to vote on any particular section. It seems a little foolish to have some part of it in limbo when you reach the voting stage. That is just the chair's view of the matter. Are there further comments before we start?

Mr. Taylor: I appreciate your comments. It is my understanding that this exercise is a briefing. It will not be a debate; it will be a briefing. Presumably, any remarks or questions by members will be simply for clarification of the briefing, not to take positions in terms of those amendments. I hope that is what the ruling will be.

The other aspect is more enormous. I heard some vibrations to the effect that the regulations are a sine qua non to the legislation. I think you have already stated that, historically, that has never been so. The chairman has heard and I have heard over the past 15 years from no lesser lights than Vernon Singer and Mrs. Campbell that the guts of legislation is often the regulations and that to pass legislation without knowing the regulations is to

sign a blank cheque. We could go on. There is a lot of merit in that. It was expounded by the Liberal Party when it was in opposition.

Of course, the mantle of power transforms peoples' outlooks and maybe now there will be more conformity to precedent. It may be that we will have to deal with this issue in terms of whether a discussion or revelation of the regulations is a necessary condition to the reporting of the bill. Traditionally, I think it would not be, but in a spirit of co-operation and kindness there may be some aspects of those regulations that the minister may want to discuss with the committee to ensure the co-operation of the committee.

Ms. Caplan: My questions regarding how things have been done in the past have been answered by Mr. Taylor. My question of ministry staff or the deputy is, does the framing of regulations depend on the ultimate look of the bill and will that be one of the reasons for a time lag from one to the other?

Mr. Church: It could become a reason. At the moment, the main reason is that the Rent Review Advisory Committee has been spending most of its efforts commenting on amendments and, in particular, working on this very thorny issue of maintenance, which I think it is very close to reporting to the minister.

The regulations group will be continuing to meet, and some of the regulations could be concluded some time in the next few weeks. There are an enormous number of regulations under the bill, and it will probably be well after passage of the bill, if the bill passes, before all the regulations are complete.

Ms. Caplan: I see. Thank you.

Mr. Cordiano: Mr. Chairman, I was simply going to comment with regard to what has just been said. In fact, it is an unusual circumstance that we face because we do have the RRAC meeting and trying to come to some agreement on what will be entailed in the regulations and the agreement that might be achieved with regard to the maintenance standards board.

In all fairness, I think we should give that committee an opportunity to reach some point of consensus with regard to the maintenance standards board, and we have heard from the ministry that the committee will be working towards that type of a consensus. It is fair to say that we should have some time allocated for that process to work itself through and that we should be hearing from it shortly. We have been told that is the case.

Mr. Bernier: Just to change the subject, it is obvious that this particular bill is not a government bill or a Liberal Party bill; it is an RRAC bill. It has done all the work and pulled the thing together. Would the committee consider designating somebody from the landlord or tenant group to participate in these discussions and to have their input here at the committee stage? It seems to me they are the authors of this bill, certainly not the ministry or the minister.

Hon. Mr. Curling: Mr. Chairman, I thought--and correct me if I am wrong, you being the chairman for the first day and the members knowing this--that this portion of the committee was set aside for the numerous amendments that have been proposed by the government so that the staff could brief you on them, and you would utilize that time. Now I am hearing that you would not like to hear these proposed amendments unless you see the regulations.

I thought my colleagues, who have spent such a long time in government, would at least be sensitive to the fact that because so many regulations have come forward, I am now asking that everything be put on the table. The act and the regulations will take some time. We are coming straight out and saying we could save a tremendous amount of time if we could brief the committee on those amendments that we have done. I would not get into discussing whether this is a tenant bill, a landlord bill or an RRAC bill. We try to be an open government and take recommendations--

Mr. Bernier: No leadership.

Hon. Mr. Curling: We use that leadership by presenting this here.

Mr. Bernier: It is not fair.

Hon. Mr. Curling: I will not go into that criticism because there are views that are being held.

I would like to use the opportunity now to allow the staff--if you do not so wish, that is fine--to bring you up to date on the amendments proposed by the ministry.

Mr. Gordon: Far be it for me to hold up the process. I have no intention of holding up the process, but what I want to say to you, Mr. Chairman, and to the minister is that, for example, when you look at the Rent Review Hearings Board and how it will operate and so forth, the guts of that will come out of regulations. How much this bill will cost the people of Ontario in comparison to what the former bill cost the people of Ontario will all unfold through the regulations. Perhaps it is the inexperience of the minister in not realizing this. When we come to clause by clause and we finish a section, I expect to see the regulations involved with that section.

You can say, "Look, there is a delicate balance here." We have heard this delicate balance stuff for weeks. We are told, "Be content and be led by the nose." The ministry can put in 100 amendments--it could be even more than that before this is finished--but we are not supposed to amend this bill because it will destroy it. Then we are told, "You do not really want to see the regulations."

11:40

We expect to have some co-operation from this government with this bill. This is the most complex bill that has come before this Legislature in 10 years. Those who were here before me tell me the last one that was as complex as this dealt with the Workers' Compensation Board.

You are telling us we should be content so you can have your way with us. You are not going to have your way with us. You are going to present regulations to us. We want to see them. We are ready to co-operate and we would like to see this bill move forward expeditiously, but we want to see those regulations.

The Acting Chairman: May I respectfully suggest a procedure here that I think will be helpful? I understand the traditional, time-worn debate about regulations. Mr. Taylor is absolutely correct. I think the chair on occasion has indulged in such a debate.

Mr. Reville: Not from the chair, surely.

The Acting Chairman: That is certainly an important aspect of the legislation. There should be time for such a debate in the committee.

Since we are not faced with voting on anything that is presented this morning, perhaps it would be a wise use of our time if we went through the actual amendments as they are printed. When you have completed that process, we could discuss the section on the maintenance board, section 14, and entertain your discussion on the regulations prior to any voting, so that all members are aware of what procedure is going to be adopted by the committee and how you wish to proceed with the bill. That does not take away any member's privileges or rights. You know nothing will be passed without a full discussion on the procedure. Is that agreeable to the committee as a way to proceed?

Mr. Reville: It is agreeable, but I want to say one thing. In the spirit of co-operation, I want to put this government on notice that the New Democrats are not prepared to proceed with this bill unless we know what that maintenance board is about. That is integral to the bill. It has been promised to us from day one and unless we get it, forget it.

The Acting Chairman: The minister is here and he has heard your comments. Any further comments from members? Can we proceed now?

Will you direct your attention to page 1, section 1? You will note that changes are indicated by arrows, underlining and vertical lines at the side of sections.

Mr. Bernier: May I interrupt? Are you going to rule on my suggestion that we get input from the landlords and the tenants?

The Acting Chairman: I rule it out of order. It is not a normal procedure. Committees entertain debate by elected members of the assembly. Elected members of the assembly are the ones who participate in the clause-by-clause examination of the bill.

Mr. Bernier: I would like to move that we have representatives from the landlords and tenants sit at this table and discuss this bill with us as we are going through it.

The Acting Chairman: Any discussion on the motion.

Mr. Reville: I understand the reasoning behind Mr. Bernier's motion and I think it is sensible. But I wonder--and I will see if Mr. Bernier agrees with this notion--in view of the fact that we already had a debate on standing on the first day of this committee and we declined to give anybody standing, whether you would agree to refer your motion to the steering committee for discussion, to report back to this committee next week before we do the clause by clause. All parties will be represented at the steering committee and they can kick it around.

Mr. Epp: I do not think we have any opposition to going to the steering committee. However, I want to remind the members that other committees have faced this problem and have found it was not particularly workable.

For instance, they have had landlords and tenants sit in the audience, feeding their particular concerns to a member without being part of the discussion or the actual formation of these clauses. That might be something

the members would like to consider in the future. To actually make them part of the horseshoe in the discussion of a bill would be setting a precedent that members may not want to have to deal with in the future.

The Acting Chairman: If it is of any assistance to members, you may wish to recall that the co-chairpeople of the RRAC will be before you tomorrow, I presume to discuss or to lend their views on the various amendments before you.

Ms. E. J. Smith: I think that is an important point. We have had individual members of that committee in front of us from time to time and it was evident to me then that it could be dangerous to the nature of the committee to be dragged into the party politics end of things. That is not its role. It has managed to remain a nonpartisan group which is looking at the housing issue, not an issue that is Liberal, Conservative or NDP.

Because it is an ongoing, permanent committee, it could be very disadvantageous to it to get caught in the clause-by-clause and to be, in a sense, put in a witness box by the various party members. I do not think it would be beneficial to the committee.

It has its process of coming to consensus, and that very consensus might be endangered by being put in a very political situation.

Mr. Gordon: That is not the intention at all.

Ms. E. J. Smith: Good.

Mr. Gordon: However, everyone sitting around this table realizes full well that RRAC has spent hours and hours, days and months, working on these amendments, the various clauses and the concept of this bill.

I cannot believe we would be denied the opportunity to ask those people how they brought about these types of amendments or to make these kinds of suggestions. We have been told over and over again that what RRAC has wrought, what it has managed to do, is almost a miracle. I would like to have the opportunity to learn more about that miracle so that I too can be showered with that kind of grace.

Interjections.

Mr. Gordon: I do not want to be facetious.

Interjection.

Mr. Gordon: I can see the member for London South (Ms. E. J. Smith) is a little agitated about my remarks. I do not think she should be, because they are made in all fairness.

I worry, though, when I find this apparent openness that we have been told about does not exist. I think it is incumbent on the minister to see that people who can talk knowledgeably about what RRAC has wrought come before this committee and be with us through the various stages.

As I said before, there is a lot of good in this bill, but there are a lot of things that mystify us and cause us some concern. If we understood it a little better, we might be able to pass some of these amendments.

I understand how the system works. I have a great deal of regard for and value the opinions of the ministry. I know how hard the civil servants work and how dedicated they are to bringing forth the best possible clauses they can, but they are not the ones who have been solely responsible for the bill. It has been the Rent Review Advisory Committee. We have been told that time and again. At every hearing, at every opportunity, we have been told, "This has been put before us." To turn around now and tell us, "We are sorry, but this just does not fit," is not acceptable to our party and to the people sitting here today.

11:50

I do not want to prolong this, but I believe the ministry people are attempting to bring forward the best possible amendments in line with what RRAC has told them about the way they are supposed to be. I remember quite well, when I was parliamentary assistant to the Minister of Health, bringing forward the health protection bill. This leads me to a thought I expressed earlier, which goes right back to RRAC too. I remember members on the opposite side--and I remember quite well who some of them were, both New Democratic and Liberal members--asking for regulations. These are being formed with the help of RRAC; if they are not, we should know.

I remember going back to the Ministry of Health with the civil servants and their saying to me, "Look, here are the kind of guidelines we are working on," and actually bringing forth some of those guidelines and making the opposition parties aware of them. That is why I get a little concerned. I detect a little bit of a patronizing tone creeping into the remarks made to us today at this table, such as: "We realize the opposition parties have traditionally asked for regulations. We understand. It is okay. We know why you are asking, but do not get your hopes up."

It just so happens that regulations are made known from time to time to opposition members sitting at tables such as this. It is part of the process; it is important to know.

After a bill is passed with the concurrence of whichever party decides to support the government in this case--or all parties, for that matter; who knows?--we will go back to our ridings and we will find certain parts of the bill the municipal councils do not like.

For example, I can tell you right now that in Sudbury they would just as soon shoot anybody who has been involved in Bill 11. They find that bill has interfered with municipal council. They are upset about the manner in which they have to get involved; yet at the time we dealt with Bill 11 there was a great big rush. You remember, do you not? Mr. Taylor remembers the discussions on Bill 11.

Mr. Taylor: That is right.

Mr. Gordon: I certainly remember the discussions on Bill 11.

The Acting Chairman: Could we bring this back to the motion?

Mr. Gordon: That is the point. The point I am making about Bill 11 is that I do not think any of us wants to find that when this bill is passed in whatever form, whether we vote for it or not we are still going to be held responsible for the kinds of amendments in it and the kinds of regulations that flow out of it. In the near future, we will have to answer to our people, depending upon the part of the province we live in.

This is a serious business. I do not want to be dealt with in a patronizing way and I hope it was not meant to be patronizing. I will give you the benefit of the doubt and say it was not patronizing.

Ms. E. J. Smith: I did not even mention it.

Mr. Gordon: I do not mean to say that you are patronizing, so you do not have to mention it.

I think I have made my point and that now even Mr. Reville understands what I am talking about. He knows I am not talking about just the maintenance board.

Mr. Reville: I do.

Mr. Gordon: We are concerned about the maintenance in this. We want to know what the teeth are, but we are concerned about more than maintenance. Let me make that clear.

The Acting Chairman: Okay. I am going to stop you there. We have had some discussion on the motion.

Mr. Taylor: Read the motion.

The Acting Chairman: Just wait a moment, please. There are a couple of things I am going to cover. First, Mr. Bernier, I would like some clarification on your motion. Your motion, if it has been copied correctly, says: "The committee invite landlord and tenant representatives of the Rent Review Advisory Committee to participate in debate on the bill." Do you mean debate on the amended sections or do you mean at the clause-by-clause stage, when voting will occur?

Mr. Bernier: In view of the hour, 11:55 a.m., I would like to stand down my motion until two o'clock and continue this debate at that time.

The Acting Chairman: Okay; I appreciate that. Would it also be agreeable to the committee that the subcommittee take a look at this over the lunch break? Would that help to expedite matters?

Mr. Reville: The subcommittee is not here. That is one of the problems.

The Acting Chairman: The subcommittee members are not here?

Mr. Gordon: We will bring the motion at two o'clock.

The Acting Chairman: Do you want the motion at two o'clock? Members are aware that RRAC will have at least one member of its committee present in the committee room at each session dealing with this bill.

Could I invite the committee to do two things? First, deal with this motion promptly at two o'clock and, second, attempt to adhere to the schedule, which has Ms. Leslie Robinson, member of the RRAC, scheduled at two o'clock for one hour. Is that agreeable to the committee? After concluding that, we will revert back to begin at section 1 with the staff people who are now present. Is that agreeable to the committee as a way to proceed? Agreed.

The committee recessed at 11:57 a.m.

STANDING COMMITTEE ON RESOURCES DEVELOPMENT

RESIDENTIAL RENT REGULATION ACT

TUESDAY, OCTOBER 7, 1986

Afternoon Sitting



STANDING COMMITTEE ON RESOURCES DEVELOPMENT

CHAIRMAN: Laughren, F. (Nickel Belt NDP)

VICE-CHAIRMAN: Ramsay, D. (Timiskaming NDP)

Bernier, L. (Kenora PC)

Cordiano, J. (Downsview L)

Epp, H. A. (Waterloo North L)

Knight, D. S. (Halton-Burlington L)

Pierce, F. J. (Rainy River PC)

Reville, D. (Riverdale NDP)

Smith, E. J. (London South L)

Stevenson, K. R. (Durham-York PC)

Taylor, J. A. (Prince Edward-Lennox PC)

Substitutions:

Caplan, E. (Oriole L) for Mr. Knight

Gordon, J. K. (Sudbury PC) for Mr. Pierce

Jackson, C. (Burlington South PC) for Mr. Stevenson

Johnston, R. F. (Scarborough West NDP) for Mr. Laughren

Clerk: Decker, T.

Staff:

Richmond, J. M., Research Officer, Legislative Research Service

Witnesses:

From the Rent Review Advisory Committee:

Robinson, L.

Bassel, J.

From the Ministry of Housing:

Curling, Hon. A., Minister of Housing (Scarborough North L)

Lavery, P., Director, Rent Review Policy Branch

Church, G., Assistant Deputy Minister, Corporate Resources and
Building Industry Development

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON RESOURCES DEVELOPMENT

Tuesday, October 7, 1986

The committee resumed at 2:11 p.m. in room 228.

RESIDENTIAL RENT REGULATION ACT
(continued)

Consideration of Bill 51, An Act to provide for the Regulation of Rents charged for Rental Units in Residential Complexes.

The Acting Chairman: The rotating chair has seen a quorum, and we will reconvene.

As I understand it, we will start this afternoon's proceedings with a motion by Mr. Bernier.

Mr. Bernier moves that one member of the tenants' representatives and one member of the landlord's representatives who presently serve on the Rent Review Advisory Committee and who were party to the recommendations made to the minister regarding Bill 51 be present at the table during the ministry's staff explanation of the government amendments, as well as during the clause-by-clause review, in order that the committee may avail itself of their expertise and familiarity with the background to these amendments.

We will have copies made immediately for the members. Would you like to speak to your motion?

Mr. Bernier: We discussed this at some length this morning, but it does seem to me that the people who were involved in RRAC were really the architects of this particular bill, as we pointed out. There seems to be little leadership or direction from the government or from the minister. Therefore, we strongly feel they should be at the table to hear the explanations of these amendments and to provide us with their expertise and familiarity with the various amendments and with the bill as it is moved through the system.

Mr. Cordiano: My colleague is totally erroneous when he says there has not been leadership. What we have to remember is that RRAC provided a series of recommendations to the government. RRAC has done that on an ongoing basis with regard to the amendments, and that is what we were discussing this morning.

Recommendations were made to the minister, to the government and to the ministry staff and, subsequent to that, amendments were drawn up. However, to state that there has not been leadership, that is your opinion, quite frankly, and you are entitled to that opinion.

I do not think that is an issue here. I do not think anyone would disagree with allowing members of RRAC to be present, but I do not think it is a necessity that they be here. The way you have stated your motion--perhaps you should state they should be allowed to be present.

Ms. E. J. Smith: Invited.

Mr. Cordiano: Or invited to be present.

The Acting Chairman: Are you posing a friendly amendment? Is it accepted as a friendly amendment?

Mr. Bernier: No.

The Acting Chairman: We will continue to debate it.

Mr. Reville: I will be supporting the motion by Mr. Bernier. The committee has been holding its breath for some weeks now waiting for the government to unveil the guts of Bill 51, and each time we ask what is going on, we are told that the Rent Review Advisory Committee has not yet finished its deliberations.

It is clear to me that the lights are on but no one is home. It might be cheaper to have the entire government run by an extraparliamentary committee. After all, they get paid only \$125 to \$200 per day. Think of the savings.

It would be totally appropriate to have representatives from RRAC here so that we can know what the government has in mind for a housing policy.

Ms. E. J. Smith: Speaking strictly to the amendment, I am amazed to hear both opposition parties attacking the existence of this advisory committee. I personally think it was an excellent and productive idea.

I support the amendment for the reasons I suggested this morning. These people ought to have the option to not come into the political forum if they so desire. If they want to come, and if we treat them with the respect that is their due and not try to politicize their presence here, it could be useful. I hope we do not politicize their presence here or badger them as witnesses.

Second, I hope the RRAC has the option to elect not to come if it so chooses as a general committee, if it does not think it a good idea. I support the invitation, but I would also support that they should have the option to come or not come as they see fit.

Mr. Gordon: I have to say I find the amendment rather abhorrent.

Mr. Taylor: There is no formal amendment, Mr. Gordon.

Mr. Gordon: Is there no amendment?

The Acting Chairman: No. He said he would not take it as a formal amendment.

Mr. Gordon: I am pleased then that an amendment has not been made.

Ms. E. J. Smith: I would be glad to make it.

Mr. Gordon: We have been told through the intervening weeks that this bill is due to the deliberations of RRAC, that this was a committee made up of landlords and tenants and that through hours of struggle and discussion in the interests of both the tenants and the landlords of Ontario, it came up with a delicate balance that the opposition should not tamper with in any way.

We were led to believe that the kinds of amendments that legislators elected by the people of Ontario would make would be the kinds of amendments that could destroy the fabric of what RRAC had wrought.

Since you people have made this committee so important and have told us that they are the people who are making this bill, who are making the ball, that is--

Ms. E. J. Smith: On a point of order: We did not say they made this bill.

Mr. Bernier: They made a recommendation.

Ms. E. J. Smith: They recommended certain matters which were incorporated into a bill.

The Acting Chairman: The chairman is at a disadvantage, not having been here. Continue, Mr. Gordon.

Mr. Gordon: Thank you. I would be pleased, on that point of order, but I do not think I have the time, to go back through all the deliberations that are in Hansard, all the newspaper reports, and pick out for you all the quotes that have been made in referring to RRAC. It would become quite clear what the member for Kenora (Mr. Bernier) said a few moments ago about the government and its leadership in this matter.

But since RRAC we have been waiting. We have had the whole business of the maintenance standards board, which my honourable friend the member for Riverdale (Mr. Reville) has been talking about that he wants to see. We have even been told that RRAC has been so busy with amendments to this bill--mind you there are only about 99 or more of them there and we are probably going to spend the next few days talking about these--that it has not been able to iron out all the details of the regulations.

There was even some discussion this morning about whether or not regulations should be even brought to a committee like this, as if we do not represent the people of this province. What is the point of running for election to be a member of this parliament, to represent the people, and then to be told that it is none of our business? That has been the whole tone of these hearings. Ever since we started on Bill 51, that is all we have heard. It has been a patronizing attitude towards the opposition.

We want RRAC here to facilitate the passage of amendments and to give the kind of advice that legislators are used to, because you have made these people responsible. So let us hear from them.

Ms. E. J. Smith: Do you like them or dislike them?

Mr. Gordon: I like them very much. I have met with many of them. They are wonderful people.

The Acting Chairman: Mr. Gordon, I was not sure whether you wanted to get back on the list and move an amendment and, if so, if you have a wording; if not, then I will let Mr. Epp go ahead.

Mr. Epp: Mr. Chairman, I move that we amend the motion by inserting in the fifth line the words "be invited to be present."

14:20

The Acting Chairman: After the comma after "Bill 51" before the words "be present"? It should now read, "be invited to be present"?

Mr. Epp: That is correct.

The Acting Chairman: The motion is in order. Would you like to speak to it?

Mr. Epp: Just very briefly, Mr. Chairman. As has been indicated by my colleagues, it is important that we not try to force these people to be here but that we try to be conciliatory and ask them to be here.

I do not see any difficulty. They may very well be here and be able to contribute a considerable amount to the discussion. But I do believe we should invite them rather than to state categorically the way it is here that they must be present. Without putting the word "must" in there, that is in fact what the mover is saying.

This is a friendly amendment, really. I hope the mover will accept it, because it is meant in that vein.

The Acting Chairman: It may be polite, but it is not friendly. It is in order.

Mr. Epp: It is not meant as an antagonistic amendment. I hope the member, the former minister, will accept that amendment.

The Acting Chairman: It is in order. We will now be debating the amendment to the motion presented.

Mr. Taylor: I appreciate that Mr. Epp has essentially concurred in the gist of the resolution. I suppose it is a question of whether you mandate these persons to be here or whether they are invited to be here, whatever that means. I am always reluctant to mandate anything, to be perfectly frank, although I do see the sense of the motion.

As the minister has said, the bill as drafted, and presumably the amendments as written, essentially manifest the accord between landlords and tenants, and it would not take very much in the way of change to prejudice any amendment or the very bill itself. This is a delicate balance, and I say that not in jest. I am not talking about political ballets or pirouettes at the moment. I am talking about a bill that is in a very precarious position. We have learned that from both landlords and tenants. The fact that so many people have come forward to criticize it from all avenues indicates that no one is entirely happy with the legislation, which has been interpreted by some to mean that maybe it is the right way to go.

I will not comment on that, but the point has been made that if we are to tinker--and now I am using a word the minister used at one time--with the wording of the legislation, then that balance could be tilted in either direction and the bill could falter.

I, therefore, see the wisdom of having someone here from the landlords and someone from the tenants who were instrumental in the accord and put together the recommendations that form the basis of this particular

legislation. I would feel more comfortable as a member of the committee with those members sitting here, knowing that any suggestion I made might have ramifications I did not completely understand without putting it to them. Otherwise, I do not think anything would come out of the bill. It is for that reason that I see the wisdom of having those persons here.

In the past, as a matter of parliamentary practice, we really have not invited the general public to participate in discussing the clause-by-clause amendments. That has not been our procedure, and I do not think it should be; but we have had people in the past who had a keen awareness and an appreciation of the amendments, often in a technical way. They have been invited by the committee to give their opinions in connection with the clause-by-clause.

I suspect the resolution in either form would result in the representatives from both landlords and tenants being here. That would be my view. The way it is worded now, prior to the suggested amendment, is that they be present. I think that is what the committee wants to accomplish. If inserting the word "invited" prejudices their presence, I would not want to see that. At the same time, I would want to ensure they did not feel they were under a subpoena or anything of that dimension.

Ms. E. J. Smith: That is my concern.

Mr. Taylor: I think the committee generally appreciates the need for these persons to be here; so I do not think there is all that much disagreement within the committee. It is just a question of whether the committee wants to chance having someone from one party or the other not here. Probably you could explain to me, Mr. Chairman, that it may not be possible for the same person to be here each day. Has it been interpreted that as long as someone from each of those groups is here the committee would be satisfied?

The Acting Chairman: The motion indicates there would be one member from each, and I understand there are nine members on that committee from each group. It would be like trying to get a chairman for this committee.

Mr. Taylor: It is not the committee's intention then to invite 18 members; it is just a matter of ensuring there are two there. Frankly, I do not see too much wrong with the resolution the way it is.

The Acting Chairman: As long as the members understand the nuances.

Ms. Caplan: The only thing I would say, and I support the intent of the motion, is that I think it is perhaps more parliamentary to invite, as committees do. I am sure the members of the Rent Review Advisory Committee would welcome the opportunity to have that status before the committee. I think it is supported and I think it is a friendly amendment. I hope everyone agrees that inviting someone is more polite and a better approach than mandating or insisting. I do not think we would have to insist. I think they would be delighted to be here.

Mr. Jackson: I have a couple of questions for the minister if I might.

The Acting Chairman: If it is on the motion, which is "be invited to," which is what we are speaking to at the moment. I am going to keep it tightly to that.

Mr. Jackson: It relates to practical questions. The expenses of the RRAC are still being covered?

Hon. Mr. Curling: Is that in the motion?

Mr. Jackson: It is germane to the question of whether they are invited or whether they are compelled to attend, whether the budget that is set aside--you know you have a budget for these people?--

Hon. Mr. Curling: Yes I do.

Mr. Jackson: --that it would have certain dollars in it, and whether those dollars could sustain the invitations or the compelling to attend.

Hon. Mr. Curling: If you are asking if there is money when they come to be paid, yes.

Mr. Jackson: And will it be covered?

Hon. Mr. Curling: Yes.

Mr. Jackson: Thank you.

I have several questions for the main motion, but I will confine myself to my statement.

I am concerned we may have oversold the bill with the optics of this whole notion that nine tenants and nine landlords spoke for all the tenants and landlords in the province. If the minister chooses to adhere to that, that is fine. If he still holds to that belief, then it is important that we create a vehicle for them to finish the work they have started.

14:30

I would imagine the minister would be most anxious, if he were willing to exhibit real leadership, to allow the second shoe to drop in this scenario and invite them to participate in the process as partners. There is reluctance for the process to stop, putting tremendous pressure on the legislators, as if to say: "Look, I have it all my way. I am not a party to the original draft. I am going to ask you to go out and listen to public comment, and regardless of what you hear, I want you to agree with what was constructed by those 18 people in Toronto." Quite frankly, that approach lacks the leadership which the issue and the crisis in housing demands today in Ontario.

As such, I believe the only responsible solution is that we require the assistance of the Rent Review Advisory Committee before this committee on a continuing, consistent basis. We know that with 126 clauses and almost 100 amendments it will be a lengthy, complicated and awkward process and RRAC's assistance will be helpful. Therefore, I will not support the amendment. I believe it is a requirement for this committee to be as effective as it should be with this bill.

The Acting Chairman: Is there anything further on the amendment? I see none.

The amendment was moved by Mr. Epp that after the words "Bill 51" on the fifth line, the words "be invited to" be inserted before the words "be present." Does everyone understand the import of the motion?

All those in favour of Mr. Epp's motion, please indicate.

Those opposed?

The vote is tied; the motion is defeated. As you may recall, it is necessary to vote on all motions.

Going back to the main motion, Mr. Jackson had some questions on the main motion.

Mr. Jackson: No. I will pass at this time.

The Acting Chairman: Are there any other people wishing to discuss the main motion? The minister would like to make some comments.

Hon. Mr. Curling: Thank you very much for the courtesy. I want to make some quick comments.

It is rather interesting that the same motion, to have the members of RRAC present while we conduct our public hearing, came forward when we started and almost the same thing happened. The chairman broke the tie and it was defeated; so the members of RRAC would not be here. In the discussion that I recall, it was said that we were quite capable legislators. You have the recommendation that was brought before us, and it was dealt with that way, if I recall properly.

Further to that, what happened was that the government decided to ask the RRAC people whether they could be present while we go around, in case there were any questions to which they could respond. We indicated that approach to the bill from its inception. It is open; we are willing to share. We have even said in the RRAC that we could not ask any one person to come, because its members' expertise is different when applied to the sections of the bill. From time to time, quite a few of the RRAC members have been here.

It is rather interesting. I have no qualms about members coming before you asking pertinent questions. I think by saying what you said, you are saying I show great leadership in making sure the process is open.

The Acting Chairman: We all hear what we must hear; I always felt that. Mr. Reville wanted back on the list.

Mr. Reville: Yes. I would not have come back on the list, except as with all things human, there are likely to be frailties. The minister's memory is not very good on this. In fact, the matter at issue on August 19--I remember it well; how could we forget?--was the standing of the tenant umbrella group. I believe it was Mr. Ramsay who voted with the Liberals.

The Acting Chairman: Foreshadowing.

Mr. Reville: Then there was a tie vote, which was broken by Mr. Laughren in the chair.

Ms. E. J. Smith: He voted with the Liberals instead of the New Democratic Party.

Mr. Reville: He also voted with the Liberals. Do you know where he is today? He is in New Zealand, speaking with a social democratic government

at the moment; so we are feeling okay about him. I just thought we should point that out.

The Acting Chairman: Are there any other comments on the main motion?

Mr. Taylor: As I understand this--please correct me if I am wrong--my interpretation is that with the motion as it is worded now, those two members will be paid for their attendance at the committee. Is that so?

The Acting Chairman: Yes.

Ms. E. J. Smith: They would have anyway.

Mr. Taylor: If it were an invitation, would they anyway?

Ms. E. J. Smith: We were not trying to cut them out of their money.

Mr. Gordon: If they are being paid anyway, it sounds to me more as if they are staff; so I do not think there should be any problem in having them come before this committee.

The Acting Chairman: I have a sense that we have just come to the end of the debate on the motion. I hope there is no need for me to re-read it.

Ms. E. J. Smith: No.

Mr. Gordon: A recorded vote.

The Acting Chairman: A recorded vote is requested.

The committee divided on Mr. Bernier's motion, which was agreed to on the following vote:

Ayes

Bernier, Caplan, Cordiano, Epp, Gordon, Jackson, Reville, Smith, E. J., Taylor.

Ayes 9; nays 0.

The Acting Chairman: The vote was unanimous.

Mr. Gordon: I would like to make a motion that there be no smoking in this committee this afternoon.

The Acting Chairman: Hear, hear. Passed.

Mr. Reville: Discussion on the motion?

The Acting Chairman: There will be no discussion on the motion. The motion is carried. There will be no smoking here this afternoon.

Mr. Bernier: What about the rest of the life of the committee?

Interjection.

The Acting Chairman: That is a good point. I usually insist upon that when I come into a committee anyhow. I appreciate that. Consider it

carried. Are there any further motions? I am beginning to like this.

Mr. Bernier: Is that just for today or for the rest of the sittings of this committee?

The Acting Chairman: He said it was for today. That is the motion that was accepted as far as I am concerned.

Mr. Reville: Do you want to talk about committee members' footwear?

The Acting Chairman: That is too personal altogether, Mr. Reville. I know I have broken the dress code, but these are strange times.

As I understand it, we will move back to what was given out to you this morning. I am going through the amendments as proposed, clause by clause. Who is going to assist us with this? I am sorry; my mistake. We will be hearing from Leslie Robinson. Will Ms. Robinson come forward? I was told only one name.

I wonder whether I can see if we are in order at the moment. Are members of the Rent Review Advisory Committee here this afternoon? Are you both members of the same side of RRAC?

Ms. Robinson: No. We are not from the same side.

The Acting Chairman: Then I guess we can proceed.

Ms. Robinson: My name is Leslie Robinson. I am a tenant representative on RRAC, and with me is John Bassel, who is a landlord representative on RRAC. We are here this afternoon in our capacity as individuals who are members of RRAC. We are not speaking on behalf of RRAC or on behalf of our constituencies. We are presenting personal viewpoints. We are also making separate presentations. We are here together because we have been working together all these months and to show you an example of how it is possible for landlords and tenants to work together.

The Acting Chairman: Do you have a point of order, Mr. Jackson?

Mr. Jackson: It is a question on the basis of the steering committee's recommendations for ordering our agenda. I wonder whether we can anticipate further presentations from individual members of RRAC. Can I comment briefly?

The Acting Chairman: Yes. It is a question of order.

14:40

Mr. Jackson: The only reason I am raising it is that I thought Ms. Robinson was coming in her capacity as a member of RRAC. I want to make it clear that since she has now told us she is coming as an individual member--

Ms. Robinson: I am here as a member of RRAC.

Mr. Jackson: I will be with you in a moment.

Ms. Robinson: Okay.

Mr. Jackson: Since she is coming forward as a citizen, and I thought we had officially closed the public hearings section, I just want to understand before we proceed whether or not we will be allowing future members of RRAC to appear on an individual basis, either in concert with another RRAC member or individually. I feel we had better decide this now and not later, since it appears there has been a change in the manner in which a member has come forward before the committee. I would like to know the ground rules.

The Acting Chairman: I am not exactly clear on this. It is possible to have some debate. I understand that on September 11 you did make a motion to invite Ms. Robinson to attend as a member of RRAC. By the most recent motion you passed, the one before the smoking motion, you indicated that you wanted someone here at all times and therefore might be calling people forward to discuss things at any time from now on.

As far as I know, no one else has made a request to come before the committee. I therefore presume that this would be the last presentation as representatives of the organization that you may be calling forward for their expert advice.

Mr. Jackson: You understand why I have raise the question.

The Acting Chairman: Yes.

Mr. Jackson: I was told they were coming as RRAC members. Now we are told they are not here as RRAC members but as citizens. There are something in the order of 30 people--the clerk can advise us--who have requested to appear before us who have been denied that opportunity. I want to make sure we follow the process fairly, because I do not want my phone ringing off the hook with those 30 people asking, "How come someone presented himself as a private individual after the process had closed?" Or, as I have indicated, will other RRAC members wish to present themselves as private citizens separate from RRAC?

The Acting Chairman: I gather that the co-chairmen are coming tomorrow, but as the co-chairmen of RRAC. Mr. Reville would like to speak. Do you have a point of order?

Mr. Reville: On September 11, the steering committee of this committee met in this room to order the business of the committee. The reason Bill Grenier and Mary Hogan are coming tomorrow is that the committee had expressed an interest in having a wrapup from the co-chairmen of RRAC.

Ms. Robinson had made a request of the chair to be allowed to appear. We were not aware that her colleague also wanted to appear. It seems to me the issue is not so much whether Ms. Robinson is here in her capacity as a member of RRAC or as a member of the public as it is Mr. Jackson's concern: In what circumstances are there going to be additional deputations, given that the public deputations are concluded?

The steering committee ordered its business on the basis of requests from committee and the request from Ms. Robinson. In fact, the ordering of the business was quite deliberate that we would hear from the co-chairmen tomorrow and Ms. Robinson today.

The Acting Chairman: As I understand it, a committee can change its mind at any time. I am therefore presuming the decision was made before the end of public hearings to invite Ms. Robinson to attend. She is doing so; she has brought somebody with her as part of her presentation. There is some

precedent for that. But there is an understanding that, other than the two chairmen coming to wrap up tomorrow, there will not be any further public hearings. Is there agreement on that in the committee, or is there debate on it?

Mr. Taylor: Was it the chair's understanding--and maybe we can clarify this with the clerk--that Ms. Robinson was appearing as a representative of RRAC or in her own capacity?

The Acting Chairman: My understanding was that the chair considered that Ms. Robinson was requesting to come as a member of RRAC.

Mr. Taylor: As a representative of RRAC?

The Acting Chairman: I am not sure about that, but definitely as a member of RRAC.

Mr. Taylor: Apparently she is here today in her personal capacity. If that is so, the committee will have to decide.

I move that Ms. Robinson be heard in her own capacity--she is here now--and the gentleman with her, Mr. Bassel.

The Acting Chairman: Is there a general consensus? I gather there is no opposition to this. Okay? It is just a procedure, then. Just to clarify the one other matter, there will be no further deputations. We are not considering this to be one; it is simply one that was decided upon before the close of the public hearings. If there is nothing further, Ms. Robinson, you can start.

MS. LESLIE ROBINSON

Ms. Robinson: Thank you. I am sorry about the confusion.

I label myself a tenant organizer. I have been involved in the tenant movement for about 12 years, and I have been employed by the tenant movement for most of the past 12 years in various cities across Ontario. I suppose it was in that capacity that I was invited to participate on the Rent Review Advisory Committee.

Over the past 12 years, I have had a lot of dealings with government and with the various pieces of legislation that have come before government. I have to say that last November or December, when the invitation came to participate on the RRAC, that invitation was a first, it was unique, and I saw it as an opportunity to participate and have some input into government decision-making.

Over the past 12 years, I have been inclined to use whatever methods are open to me to promote the tenant perspective and to promote a position that defends tenants. Until last year, the channel that was most open was the political channel. The tenant organizations where I was on staff sent out questionnaires to politicians and tried to pin down politicians. Most of our contact was with politicians during elections, and our participation was in the political process, encouraging tenants to vote.

That perspective, that position has not changed, and I would not ever want it to go away. However, the invitation to sit down with Ministry of Housing staff and actually participate in developing legislation and positions was a first.

When the RRAC first sat down, we had put before us the assured housing policy for Ontario, which was a government position and policy paper. It was very clear at the time that this was government policy and that whatever the RRAC did was a follow-up from this policy paper. In that way, the work we did was started and guided by the assured housing policy. The policy and its parameters were not devised by the RRAC. I do not think we could have written a report if we had devised the policy. However, the parameters of the policy were given to us, and we were asked to set out some priorities.

We were there as tenant and landlord representatives because we supposedly knew what was important to landlords and what was important to tenants. We were not forced to come together and make a report. What we were being asked to do was very much left up in the air and left up to us to decide as a committee. How much time we spent on it was left up to us. We spent a lot of time on it.

That is how we started as the RRAC, and we did not start as great friends. We did start on opposite sides of the table as landlords and tenants. I had never sat in a room with landlords before. Not only had I never been invited to speak to government people; I had never talked to landlords except through the media. You have to be a lot more polite when you do not have the media as a barrier between you and the landlord. You have to see the person as a human being and start to consider the interests of the other side.

That is the first thing that happened at the RRAC: Landlords and tenants had to acknowledge the interests of the other side. I had to acknowledge that landlords are landlords to make money, and landlords had to acknowledge that tenants do not just buy something from them, they are provided with homes, and because they are our homes we are renting from landlords, there are needs tenants have that we would not have if we were buying toothpaste from the landlords.

It is significant that the people who were on the RRAC were able to experience that change. It is significant that government was willing to open itself and give us the access we had to its resources, information and policy development. I learned a lot from my participation on the committee.

All that aside, I have come here to tell you why I signed the RRAC agreement. The agreement has been the subject of a lot of debate. It is not the most popular paper that has ever been issued. I signed it for a couple of reasons. First, I appreciated the process that was started in the Ministry of Housing, and I have some trust and some faith that process is going to continue and that the consultation is going to continue. I am not 100 per cent sure, and certainly there are some doubting Thomases who say, "They just got you to sign the thing so they could get the legislation through, and they are going to ignore you after the fact," but I am going to hope they are wrong and that the process will continue.

14:50

I also find there are some very important issues and recommendations in that paper that had never before been included in the debate and discussion about rent review. Over the past 10 or 11 years that we have had rent review, I have found that tenants have had fairly protective legislation on paper. We have certainly had a guideline that continued to lower. Where are we now from where we were before? We have less housing, we have more homeless people, we

have more people with housing problems, we have more press coverage of the housing crisis and we are in worse shape than we were then. I had to ask myself if it was working. Was fighting for better legislation and for the lowest rent increases we could get the way to go about doing it? Maybe there is a different way.

For the past couple of years or number of years, I have been thinking that rent review was not the only issue. Rent review is very easy for politicians to talk about because there are some hard and fast numbers involved. It is the landlord's money and not the government's money that it is being cut or given, and it is a political issue. However, there is more to housing policy than rent review, and there is more that has been ignored over the past 10 or 12 years. There is the provision of housing units.

How do we get more housing? We have got it when landlords have built it, when the private development sector has built in, and we have got it when government has either built it directly or provided funds to nonprofit groups. When we take a look at the housing that gets built, we find that when the private sector has built it, the people who really need the housing do not have access to that housing right away. The private sector builds housing for people with a fair bit of money.

If you are a low-income person or a person who has no housing, you need to turn to government either to build the housing directly for you or to provide moneys to nonprofit groups that are going to provide housing for you. The recommendation in the RRAC report is that 3,000 units of nonprofit housing be built each and every year until the low-rental housing need is met. Mr. Curling's announcement yesterday encourages me that the first step has been taken by government towards meeting that tenet of the report.

I feel more comfortable at seeing rent increases and a rent increase guideline that is higher when I know there is going to be more housing for people to move to. I cannot in my own mind defend a rent increase that is going to give a person an affordability problem if that person has no other options and is going to end up on the street. The government commitment to the new housing units is a step in the right direction, and I hope it will continue until we see a lot more supply in the nonprofit and public housing sectors.

The second reason I signed the RRAC report was that in participating in RRAC, I had said to government: "Okay, you want me to participate in a process that is going to acknowledge that landlords want to make a profit, and you are going to tell me that this process is going to encourage the construction of new housing units. That is fine, but what is the point of constructing new housing units if you cannot keep what you have got?" As we were working on RRAC, I saw government developing what ultimately resulted in Bill 11, and the Rental Housing Protection Act being passed. I was once again able to participate in a process that was aimed at rent control and at providing more housing units, knowing the housing we had was going to stay there at least in the short term. That was another reason I signed the RRAC report and was willing to continue to participate.

The third issue is very important to me. Again, it is one of those little other issues on the back page of the RRAC report; that is, the security of tenure protection for rooming-house and boarding-house tenants. I feel it is a crime that the middle-class tenants and even low-income tenants who have rental housing have far more protection than people who live in rooming and

boarding houses. If you live in a rooming or boarding house and you have no protection under the Landlord and Tenant Act, you can be evicted without cause at any time. Rent review protection is useless to you. If you take your landlord to rent review, you get evicted in return for it.

I felt that people who live in rooming and boarding houses need that basic security of tenure protection before I was willing to go on and talk about yet more protection for the rest of the tenants in Ontario. Again, the recommendation in the RRAC report is that there be security of tenure provisions introduced for rooming and boarding house tenants and that the supply of rooming and boarding houses be addressed as well. That has been partially addressed by Bill 11, which has stopped some of the deconversion of rooming houses. I urge the government and urge this committee to continue to give priority to the issue of rooming and boarding house tenants.

The fourth and final main reason I signed the RRAC agreement is that the agreement includes a recommendation for a Residential Rental Standards Board. Once again, one of the big issues for tenants in paying the rent is that the rent goes up based on what the landlord's costs are, but how do we complain that we are not getting what we pay for? We have to have some assurances that our maintenance needs will be met. Again, if you as government and we as RRAC are trying to address a comprehensive housing policy, we have to take care of the housing that is in bad shape and we have to do it not just for the people who live there today, but for the people who will want to live there tomorrow. If we continue to see the housing stock in Ontario decline, we will be in a mess 20 years from now when it falls down.

The recommendations in our report for a maintenance board tie a landlord's ability to receive any rent increase to his keeping to a minimum maintenance standard. I believe it is important that we talk about the monetary penalty going into the tenant's pocket rather than going into government's pocket. When you fine a landlord for something, sometimes it is just the cost of providing low maintenance and the tenant does not really benefit in any way. When you stop a landlord from being able to charge a rent increase because he has not met a minimum maintenance standard, then I believe you have a different story and you give more control to the tenants. You let the tenants talk and deal directly with the landlord over the maintenance of their housing.

As tenants, we have a lot of concern about maintenance of rental housing and we are quite interested in participating in improving the maintenance of our housing. We just have to have the tools.

Those are some non-rent-review issues. I believe it is fair to say that the package of the four issues I have just outlined, the new units, the legislation to prevent conversion and demolition, protection for roomers and boarders and the maintenance board, are the reasons I signed the RRAC report.

As for the commitment to continue, I have to say it is very encouraging to feel I am advising a minister and working with people in the Ministry of Housing who are dedicated to trying to solve the housing problem, rather than perhaps trying to come up with legislation that might be more politically feasible, or might get them more votes. When you are really trying to solve the problem, then what you probably do is solve the problem. If you are really trying to get votes, what you end up with are votes.

I am interested in continuing to participate in trying to solve the housing problem. I would like to say that in the future the relationship among RRAC, the politicians and the constituents of RRAC members has to be ironed out. We were not there as representatives of our organizations or our constituents. We did not go back to our constituents to ratify what we signed. We took a first step and we were 18 people who signed a report that was a recommendation and advice to the minister.

I believe we have to take a look at opening up the process and including more tenants, and asking tenants and landlords in Ontario to participate and to trust that we can solve the problem. Because I believe we are at a crucial time now, where you have 18 people who trust you, and it may be only 18 people who trust you. You have to keep on going and you have to keep government open in order to increase the trust and go a bit further.

Tenants will still get involved in the political process and they will still try to get more protection, as will landlords, during election time; but when we have a government elected, we are given that government and that government has a policy, that is the time when you take a look at tenants and landlords as problem solvers and invite us to participate in the process. So I ask you as politicians to envelop that attitude, that you are trying to solve the housing crisis and address housing problems. The crisis and those problems go far beyond the issue of rent review legislation. You have to take a look at the housing policy as a comprehensive policy and deal with the thing as a whole.

15:00

The Acting Chairman (Mr. Warner): Did you want to handle questions?

Ms. Robinson: Perhaps Mr. Bassel could speak. We are prepared if Mr. Bassel could address you and then take questions after both of us have finished.

The Acting Chairman: That is fine.

Mr. Bassel: I would like to start by saying I endorse every word Leslie Robinson just said, as I am sure all the other landlord representatives of the Rent Review Advisory Committee would, as well as the tenant representatives.

By way of introduction, I have been involved in the construction and management of high-rise residential accommodation continuously since 1958. I have not been a large producer, but over the years, I guess the number of units is quite impressive. I stuck to it for a long time. Like Leslie, I am not here as anyone but John Bassel, builder and developer. I am a member of many associations which have helped the industry for a long time, but I do not think I have dedicated in total over the years the amount of time I have dedicated to the RRAC process. I felt the industry was in chaos and the tenants were in chaos. The opportunity came along for me to participate in the process.

I want to talk mostly about process this afternoon. You have heard all the rhetoric. You have heard the far left and the far right. I will try not to repeat any more of what you have already heard than I can possibly help.

One of the big things the RRAC process has done--and I think Leslie touched on it extremely well--was to depolarize to a certain extent landlord-tenant relationships. Leslie said she walked into that room never having talked to a landlord before except maybe in anger, and maybe some of her early meetings were pretty angry.

I want to liken the process we went through, although it is not identical in all respects by any means, to union-management negotiations, where two sets of people come from different directions. Their goals are similar: to create jobs or housing, to have those jobs or that housing good and, on the management side, to be able to live in an environment that is not hostile, so the industry or the jobs or the housing can continue to be viable. The other hope we have is to depoliticize the process, as much as it is possible to depoliticize something that has been political for many years.

I want to digress for a minute. I listened with great interest to the motion and the amendment this afternoon. One of the things I wanted to do today--and I guess I have been usurped by your motions--was to invite members of this committee to visit RRAC as a whole for a day, or a day and a half, or whatever time is necessary. I have talked it over with Leslie. Although we do not have the final word with RRAC or with the Ministry of Housing, I would like to invite that sort of consultation to take place soon.

We have a 20-page RRAC agreement, which is a sketch. That is all it is. It is the final 20 pages which compress thousands of hours of hard work, many thousands of pages of minutes, many anguished times, acrimonious times. One thing I believe is so important in the process is that although the agreement was signed on April 18, RRAC still exists. RRAC is still working together between landlord and tenant. Almost to the ultimate extent possible, the commitments contained in all those hours and days of deliberation and the compromises that have been made have been honoured by RRAC in discussing regulations and amendments to the legislation that have been presented before us.

The government might be criticized for having so many amendments, but many of these amendments have been generated because the landlords and tenants on RRAC have come forward and said, "Hey, you guys, I do not know who the guy was who ghost-wrote that act for you, but he did not do it the way we wanted it to be done." As I said, both tenants and landlords on that committee have honoured the commitments that were made.

Let us deal with the committee hearings for a minute. I sympathize with a statement made by Mr. Gordon earlier today. He is part of the legislative process and we at RRAC are saying to him, "Don't tamper with it." Mr. Gordon, we do not want anybody to tamper with the balance, but we would like input. That is why I was suggesting that the consultative process between this committee and the RRAC take place.

I am the last one to say an amendment is bad, but I would like to have the opportunity to give--I am repeating myself over and over again, but I am very sincere about what I am saying--it is beneficial that you pass the motion today to have the RRAC people here, but it will not be the same as if you sat in a room with the 18 of us and asked the questions you might want to ask.

I know there are some political biases here, but people do not want to feel left out of the process. This is one of the most important things. One third of the people of Canada live in Ontario and about 40 per cent of that

third live in rental accommodation in Ontario. We are talking about a lot of people. I would welcome an opportunity to do that and, if this committee feels it is appropriate, I ask that the necessary steps be taken to have that happen.

One of the big things the landlords went into the process with is the question to ourselves, "Is there and should there be a place for the private sector in rental housing in the future?" The answer to both, in a nonhostile environment, is resoundingly yes. The main reason for the latter is that the construction industry will always react to competition, and the private sector provides competition.

The landlord or the investor who has to build is looking for a return on his investment. He will go out and hammer the trades, the suppliers and the local trade unions when it is negotiating time to try to make the best deal he can, because he is investing in a property, and it is a long-term investment. When I am a general contractor, I am interested in making the best deal for today. My interest in hammering out a deal with the unions is fairly short term.

If there is no private sector in the residential rental high-rise, that will not happen any more. If the public sector has to build all the housing, as you all know, the amount of money involved in doing it, the cost per unit is likely to be a lot higher. I feel there is a place for the private sector and there should be a place. We are willing to take our place in that. I think the question has been asked, particularly by Mr. Reville, "Will you guys build?" My answer is, "I will build in any nonhostile environment."

I am prepared to do it. I have done it for an awful long time and I intend to continue to do it, be it residential rental, high-rise or something else. My crew and my company are particularly skilled in that field and I would like to keep them working where they are best suited.

15:10

Bill 51 is a springboard, a step towards rationalization of a real problem. I do not think the finger can be pointed at any one party or any one sector for the problem we have. We all have to bear the blame or part of it. I feel my industry has to bear part of the blame. I feel that everybody else who has anything to do with it has to bear part of the blame.

Bill 51 is the springboard. If it becomes law in any rational form, it will be a good springboard, but we have to address supply and affordability, which are the next great steps to be taken. Bill 51 without the rest of it is nothing. That is all I have to say for now.

The Acting Chairman: Thank you, Mr. Bassel. Are there questions from any of the committee members?

Mr. Reville: Ms. Robinson, it was helpful that you explained why you signed the RRAC report, although we have heard a lot about how wonderful the process was. Both you and Mr. Bassel talked again about how wonderful it was, and it is nice to know that it was wonderful.

The Acting Chairman: It sounds as though you could put a tune to it.

Mr. Reville: At times it sounded like something you would read about in the Old Testament as well. It makes you think there are connections between miracles and faith and we should take this on faith.

You said we were here to solve the housing crisis. Is that what you believe we are doing at this committee?

Ms. Robinson: That is what I would like to see you doing. I would like to see you solving as much of the housing crisis as you can.

Mr. Reville: So would I. Do you understand how the legislative process works?

Ms. Robinson: A fair bit.

Mr. Reville: Do you realize the committees get to react to what the government puts before them?

Ms. Robinson: That is right.

Mr. Reville: Do you realize that what we are here to do is the public process and the amendment of the bill that was brought forward by the government to deal with rent regulation?

Ms. Robinson: That is right. This committee has Bill 51 before it.

Mr. Reville: And that we do not get supply programs or affordability questions before us unless the government puts them here?

Ms. Robinson: I suggest that you do not get those issues before you as a committee; this committee is dealing with Bill 51. What I ask you to do when dealing with Bill 51 is to deal with it within the context of the supply issues and other housing issues. As political representatives, you are not powerless in urging government to take some initiative, in speaking out about the need for more housing units and in participating in the whole process that is involved in supply and affordability and other pieces of legislation.

Mr. Reville: You will have read Mr. Gordon's and my remarks in Hansard that do urge the government to do something about these other issues.

Ms. Robinson: I may not have, no.

Mr. Reville: It is interesting reading. You mentioned Bill 11. The government did indeed bring forward a bill ostensibly to deal with conversion and demolition matters. Do you have any views on how effective that bill will be?

Ms. Robinson: So far, the fact that the bill creates a whole, long process that landlords may have to go through to convert or demolish a building probably has prevented a good number of demolitions or conversions from getting started, because the attitude of landlords would be that they would not want to jump over all those hurdles.

We have some time yet to see whether the process is going to work, and in the long run Bill 11 provides that the final decision is made by cabinet. I believe therefore that the issue ultimately becomes a commitment of cabinet to prevent demolitions and conversions where they are going to affect the supply of affordable housing.

Mr. Reville: You were in Windsor the other day and you saw Mr. Doherty.

Ms. Robinson: That is right.

Mr. Reville: You realize that he has already finessed a conversion through Windsor council and that the cabinet is not going to do anything about it?

Ms. Robinson: There is a building in Windsor, and I understand the application for conversion to condominium was made before Bill 11 was announced.

Mr. Reville: There has been one under Bill 11 as well that sailed right through Windsor council.

Ms. Robinson: The next step for tenants in Windsor is to appeal that decision to the Ontario Municipal Board.

Mr. Reville: The tenants are all gone. Cabinet does not get to play. That is what is wrong with Bill 11. You also know about supply; we get estimates and a budget, but those processes are really jerk-ass processes.

The Acting Chairman: Excuse me. I do not wish to interrupt the member particularly, but the chair is--

Mr. Reville: I was getting to the question, Mr. Chairman.

The Acting Chairman: I was more concerned about the parliamentary language.

Mr. Reville: "Jerk-ass" is not parliamentary?

The Acting Chairman: You might wish to withdraw that and find some other substitute.

Mr. Reville: I withdraw "jerk-ass" and substitute "useless."

The Acting Chairman: Right. The chair would appreciate it if you would stick to Bill 51 and not any other number.

Mr. Reville: The deputant was talking about this in a broad context. It is really important that she did.

The Acting Chairman: I am allowing a certain latitude, but we are not discussing Bill 11; we are discussing Bill 51.

Mr. Reville: It would seem to me we are discussing the framework of Bill 51. However, you know best and I will adhere religiously to your dictates.

The Acting Chairman: Good. I feel better already.

Mr. Reville: I will stop bothering Ms. Robinson.

The Acting Chairman: Do not harass the chair.

Mr. Reville: I am going to bother Mr. Bassel next.

The Acting Chairman: Great. Be my guest.

Mr. Reville: Mr. Bassel, you indicated this was a response to a question I have asked on a number of occasions. You said, and I quote, "I will build in any nonhostile environment," which I submit to you is no answer at all. It seems to me that business people always want the most favourable atmosphere. That only makes sense. That is totally rational.

Mr. Bassel: May I respond to that?

Mr. Reville: Sure.

Mr. Bassel: There is a difference between a nonhostile atmosphere and a superbenevolent atmosphere. I am not asking for a superbenevolent atmosphere. I am asking for something that is not hostile. What has existed lately has been extremely hostile as evidenced by the fact that people have not built.

Mr. Reville: That is a good point. Will you tell me what the hostility consisted of in 1975 or 1981, for instance, to pick two random years that do not connect much with anything?

Mr. Bassel: They do not?

Mr. Reville: They do. Actually, that is why I asked the question of you.

Mr. Bassel: I see. Obviously, I was around in 1975, since I started in 1958. That was the year of rent controls. That is when rent controls came in. You have to consider the situation of an industry. I do not want to go into a lot of lectures; so please stop me.

It was an industry that had overbuilt itself over a long period of time. Apartment owners are compulsive builders, or they have been in the past. That is why I say a nonhostile atmosphere, because the compulsion is there. All of a sudden they found themselves with the spectre of something they did not understand.

You must also understand that the building industry is one of the most highly regulated and legislated industries in Ontario. Here was one more thing coming along, and it did come along. People, especially the larger corporations--some of them absolutely the most reputable in Ontario in the housing industry and I can name them, not only in Toronto but also in Ottawa, London and other places--made a conscious decision and just stopped building because of further regulation. That is probably the answer I have for 1975.

15:20

I think 1981 was another nail in the coffin. I am not suggesting by any stretch of the imagination that all the nonbuilding from 1975 to 1986 was caused solely and only by rent controls. I would be foolish to make a statement like that. I would be glad to discuss it with you in the hall, or if you want me to help you try to create supply, I would be glad to visit your office to come up with some ideas. There are other factors and constraints on the building industry, such as high interest rates and escalating building costs.

When the condominium thing started after 1975, it became very profitable in the short term. The costs of goods, services and labour were not quite as important when you were not making a long-term investment. The market was

there; people wanted to buy these things. One of the reasons we suffer with high costs now is directly attributable to the fact that when someone is making a long-term investment, he has to be more cognizant of the costs that go into it, as I said during my little talk. Am I making myself clear?

Mr. Reville: Yes. I agree with your answer. As you may know, I spent most of my adult life in an ancillary industry to yours and have some understanding of the cost of money and its effect.

I have one more question. You posed a rhetorical question about the place for the private sector in the rental residential business, which you suggested was on the minds of landlord representatives when they got involved in the RRAC process. Just out of idle curiosity, what do you think I believe about that?

Mr. Bassel: That is a very good question. Do you know what? I would like to get to know you better so I would know what you believe about that. I really would.

Mr. Reville: We could spend a weekend at Niagara-on-the-Lake or something like that.

Mr. Bassel: Or in the Ministry of Housing on the fourth floor with croissants and coffee until three o'clock in the morning three or four nights in a row.

Mr. Reville: I do not have the same kind of access to the government offices that you do.

Mr. Bassel: Maybe you are lucky.

Mr. Reville: Maybe that is just the way it is. Thank you, Mr. Chairman.

The Acting Chairman: Good. I did not want to interrupt a good personal conversation.

Mr. Reville: Housing is really a personal thing.

The Acting Chairman: So I am learning.

Mr. Gordon: Ms. Robinson, first I would like to say that I have admired your work in the past. Even before I was Housing critic, I was aware of your work for tenants in Toronto. I think you will be either a hero or a leper a couple of years hence among the tenants of Ontario. I would not venture to guess which it will be. I appreciate your coming this afternoon to talk to us, and I hope that you or one of the other members of RRAC will be here, as we have indicated in the motion.

There are approximately 1.1 million tenants in Ontario. I know that as their representative in Metro, you have wanted things such as a rental registry for some years. I know you have also wanted to find a way to improve maintenance for people who live in apartment buildings. I have some empathy--maybe sympathy would be a better word--with the problems tenants face in this municipality, because I too am a tenant and am quite conscious that maintenance is not always what it should be. I have had to go through some bureaucratic nonsense to get things fixed up.

One of the concerns I have, and I would like to hear your views on this, is the fact that a commitment was made to the tenants of Ontario that they would be looking at only a four per cent increase. As you said, in the past the guideline has been going down each year. I do not expect you to comment on my comments about the minister's news release about how much was going to be saved--I do not know whether you want to get into that, and I will not bother you about it--but I believe a great deal of money is going to change hands in comparison to the four per cent that was promised.

As a matter of fact, when the fair rental policy people were in here--John Bassel was here that day--they estimated the amount of money that would be transferred would be enough to build 3,000 units in Ontario, which, if you figure it out at \$60,000 a unit, works out to \$180 million or \$190 million.

Do you not think you paid a very high price for a rental registry and better maintenance when in fact I do not think any one of the parties sitting here, if they were the government, would have had to provide that kind of protection for the tenants of Ontario, since there is a natural evolution that goes on in Ontario and this government would have had to make that possible?

Ms. Robinson: I guess it was getting to the point, particularly in Toronto, where we could not wait much longer. The need to build more housing was greater than the need to keep rent increases at four per cent rather than five or 5.5 per cent.

When you look at where the crisis hits the hardest, I do not think it has been people who were paying a four per cent rent increase; it has been people who do not have any housing at all, people who are living with very poor maintenance conditions or people who are being turfed out of their buildings because the building is being converted to a co-ownership scheme.

I felt I had an indicator of where the need was because I had spent so many years sitting at the other end of the telephone that tenants could call up and tell us their concerns. When the guideline was six per cent, I was not receiving a lot of phone calls from people saying, "The guideline should be reduced to four per cent." I agree it should have been, because inflation was coming down, and there was a lot of windfall profit going into the pockets of the landlords. But it was not the primary concern and the primary consideration.

A goal of RRAC was to see that the money changing hands between landlords and tenants was actually going to those people who were going to do something with it and to those people who were providing something for the money. I would rather see the money change hands in the form of a 5.5 per cent rent increase, rather than four per cent, than go into all the hands that collect illegal rent increases, which is what a rent registry is designed to stop. In some respects it is a matter of who is getting the money.

I believe your analysis was correct, though, that what we are doing is paying a bit more money to landlords. In return, we are getting some attention to the housing needs that maybe landlords have nothing to do with in the form of new units, maintenance board and the other considerations in our report.

Mr. Gordon: You probably were here this morning and you probably heard me talking about--

Ms. Robinson: I am sorry; I was not here this morning.

Mr. Gordon: This morning we discussed this whole business of regulations. As you know, the guts of the bill really evolve out of the clauses first and then the regulations. I just wonder what your experience has been with regard to the regulations and how far along it is.

Ms. Robinson: As little as possible, actually.

RRAC is made up of nine tenants and nine landlords. On both sides we all have different areas of expertise. I am not a person who has a lot of patience with regulations. I have been involved in following through the regulations in some of the economic issues and have been consulted as to whether the regulations that are being developed are consistent with the RRAC report. I am satisfied that I have had my input and been heard to the extent that if they have been inconsistent with the RRAC report, they have been modified.

The regulations are being devised in the same way as the legislation is being devised. If what you want to do is to follow through on the RRAC report, then I would say the regulations are following through with that process. If you do not want to follow through with the RRAC report and you want to make changes in a different way, then that is your job.

15:30

Mr. Gordon: Are you satisfied that the regulations that have been coming down so far are in accord with the RRAC report?

Ms. Robinson: To the extent that I am familiar with them.

Mr. Gordon: Would you feel it is important that this committee understand those regulations?

Ms. Robinson: My position has been that I understand the process has been fair, the consultation is continuing and it takes a lot of time to get into the nits and the grits of each and every regulation. I have trust in my colleagues who are getting into the nits and grits. If you want to get into nits and grits results, they are there to get into.

Mr. Gordon: But you have been consulted about the regulations.

Ms. Robinson: Yes.

Mr. Gordon: Thank you. I have another question, to Mr. Bassel. I had an opportunity to talk to you as well, Mr. Bassel, about the housing crisis we have; I know you are concerned about supply, and about affordability, as a matter of fact.

Mr. Bassel: That is right.

Mr. Gordon: Given the boom that is going on right now in single-family housing and the kind of building that is going on with condos and so forth, is the private sector really in a position to get into building a lot of rental units in a hurry over the next year or two, or is there going to be a problem for the industry?

Mr. Bassel: That is an extremely good question. It is one I have had concern with, because one of the hats I wear is that of a management trustee on the welfare and benefit fund of one of the unions that is mostly concerned with high-rises, which is basically the main form of rental accommodation. As

a result of what has happened over the years, there has been a substantial reduction in the number of skilled workers in that field.

We talk about investor confidence. We have to talk about worker confidence too, and we have to talk about supplier confidence. First of all, the preplanning process of getting ready to build a high-rise building is a long one. It does not happen in days or weeks; in fact, it takes months, and then the building process happens.

The short answer to your question is that to gear up to do it will take some time. I am willing to do that, as I said, in any decent environment. It will take a while to get more people back into Local 183 and Local 506 and all these people who do the work. As well, the suppliers learned many years ago not to stock things any more. Hence, you see houses around with no bricks on them for three, four or five months because they got burned in the past with the wildly cyclical aspect of the business.

What I am looking forward to--and maybe I will not be around when it happens; I hope I am--is a more stable thing, so that the industry knows, the suppliers know and the unions know that a certain number of people and supplies are needed on an annual basis to meet the need so they can depend on it. What I am trying to say is that the confidence has to be built up. It will be built up over a period of time. There are many condominiums being built now, and part of the reason is that there are not sufficient rental units available--part, not all.

The short answer to your question is that I still have enough good contacts among the suppliers and the people who build high-rises that, given the opportunity, I could produce, say, 600 units to be ready for occupancy about 18 months down the road from now. I am starting the wheels in motion to do that sort of thing. I am one part of the industry.

Mr. Gordon: I am sure with your reputation in the industry, you are one of the people who could do that.

Given the fact that we have had very little building going on--it has been diminishing in numbers since 1975--and given the fact that there has been virtually no building going on since it was announced there would be a four per cent guideline, where have all these tradesmen gone? Have they retired or are they building single-family homes, condominiums and commercial buildings? Are they going to be all tied up with that new proposal they are talking about that the boys from out west want to build somewhere in Mississauga?

Mr. Bassel: All of that.

Mr. Gordon: Where are the people when it comes to building new rental apartments? Where are the materials, the bricks, the wood, etc.? Obviously, all that has become a diminishing resource. I ask you that as somebody who is in the field.

Mr. Bassel: I am in full agreement with what you are saying as things stand today, but if I and Goldlist and Minto and people like that start telling the suppliers, the manufacturers and the trades we are gearing up, they will gear up too. Over the years, we have had probably one of the most productive forming businesses in the world. I mean that sincerely. The forming system that is used throughout North America was developed right here in Toronto, and it has been exported.

I happen to be pretty good friends with the people at Local 183 who provide all the men to do this. When I say friends, we bat heads when it is negotiating time, but in general terms it is a symbiotic relationship, if you wish. These people will recruit the people again. A lot of people have left the industry--some went out west and some went to factories--because Local 183 could not provide them with work.

There is a short supply of people to build low-rise houses now. The lead time is needed. I do not need bricks for a high-rise 12 months after I make the decision today to build it. I can gear up Canada Brick or CBM or whoever it is I want to buy from to provide those things for me. The same thing is true of concrete and of people. I cannot snap my fingers and have it happen overnight.

Mr. Gordon: How long has been that we have had this shortage of men and supplies? Is it two years now, or a year, or three years? We had the recession, and during the recession it was not a problem, but we have been moving along quite nicely now for a good year and a half in Ontario at least.

Mr. Bassel: The high-rise expertise in forming, which is the shell of the building, has been dwindling. Its heyday was in the early 1970s up to 1980, and it has been dwindling since. Local 183 has a fantastic training centre, a multimillion-dollar training centre specifically to retrain and train people to do exactly the work we are talking about. I would like to take you over there and show it to you. I am not sure whom it is supported by, but--

Mr. Gordon: You could put up a sign. I notice there are a lot of signs in restaurant windows right now saying: "Waiters wanted. Come in, we will be glad to train you. Have a new experience." We have a four per cent unemployment rate in Toronto, which is looked upon as being virtually nonexistent unemployment. Do you look to find people to come from the Maritimes and the west?

Mr. Bassel: Possibly immigrants as well; from out of the country. You are right.

The Acting Chairman: Any other members? I might remind members that you agreed to set aside an hour, and five minutes from now the hour will be concluded.

Mr. Taylor: I appreciated the submissions from both of you. It indicated to me a very difficult role you had to play. It also indicated a consensus which must have some ramifications in a personal sense. We sat here listening to landlords and to tenants. I would not characterize them as dissidents, from your point of view, because they have real concerns. They have practical experience, and many of them are suffering personally because of the history of this legislation and have an honest fear of what Bill 51 might do to them.

I was interested in the consensus you have obviously arrived at, and by way of curiosity I am wondering what repercussions or feedback you are getting as representatives of your respective industries. Can you give me something that will help me in that regard?

I know that the less you know about something, the easier it is to form an opinion and you can be more certain of your conclusions, and you cannot expect all the landlords and all the tenants to understand fully the problems you are wrestling with.

I am interested, simply because the committee seems to be responding more to a consensus from the committee than it is to the people who have actually made representations to the committee as landlords and tenants.

Ms. Robinson: It is a good question, and I think how we deal with the responses from our two constituencies has a lot to do with how we continue to deal with housing policy.

I would say from the tenant perspective that a fair bit of consultation went on with representatives in the tenant movement during the process. They knew what we were talking about, and we set up day-long Sunday meetings for the purpose of hearing from them. When we signed the agreement, they understood we were signing so that we could get mainly the four things I mentioned, the units in Bill 11 and roomers and boarders and maintenance; so they understood why we signed the agreement. But as for tenants in the tenant movement, such as myself, if you told me I was writing tenant legislation and I did not have to care what John Bassel thought about it, I would write a different piece of legislation. It is a different thing.

We were put together and told to set some priorities and, "If you can find a meeting place, find a meeting place." When the tenants are over here and the landlords are over there, you do not have just to set priorities, you want to set forth clearly everything you want. I think the role the tenants are playing in speaking from a tenant perspective and in promoting policy that will protect tenants is a very important role. It is different from the role I was playing and the members of RRAC were playing when we were trying, in an instant, for a piece of legislation and for a process, to find a meeting place with the landlords.

I would say there have been requests from tenant leaders recently to be more included in the process, to be consulted, to have us on RRAC consult with them. I have asked RRAC that we open the process to more people on our maintenance subcommittee, which is dealing with the maintenance board. We have two landlords and two tenants who have not been on RRAC previously, new people. If the process is going to work, it is going to have to be opened up more; we are going to have to go a lot more public.

We had a short time and not a lot of trust. However, we have taken the first step, and I think we have to include more of the tenants and landlords in our constituencies.

Mr. Taylor: Without having to refer back to obtain their endorsement of the posture you might take on a particular issue.

Ms. Robinson: That kind of thing might come in the future.

Mr. Taylor: I am not being critical of you. I do not know how you could. Everybody's business is nobody's business. I do not know how else you could exercise what you probably would consider common sense if you had to take into consideration so many conflicting views. Historically, that has been a problem in the form of regional governments; in the Toronto area, for example, you have had representatives of municipalities who did not know whether they should be acting for the municipality or for the region. The best interests of the region might conflict with the best interests of the municipalities.

I can appreciate the personal conflicts that you both must have been in. I suppose in a sense it is historic that this meeting has taken place and that

something has come forth as a result of the association's work. I was interested in the process.

Mr. Bassel: May I respond to that from the landlord community? The responsibility of negotiating on behalf of a lot of people weighs heavily. I have had the experience before, as I said, having been in management negotiations, and some of the scars on my back are old and some of them are new. Naturally, not all of the landlord community agrees with everything that happened. It is the old story: You have to be there to understand, and not everyone can be there.

If I can capsulize, the feeling is that by and large pre-1976 owners have not been treated as fairly as they would like to have been, but in general terms we have come up with a good springboard, as I said. If we do not use that springboard, we will fall back into--I do not know what--something undesirable from everyone's point of view. Sometimes words are spoken in haste and you can live to regret them later. The process we went through was not a hasty process. Most of the words that ended up on that 20-page document were weighed extremely carefully.

From what I have read in Hansard and some of the feedback I have had from people who have been here, I sympathize with the people in this room who have to deliberate on what they have heard. I reiterate that it would be an extremely useful experience for you people to come to see the 18 of us and spend time in conversation with us in order for you to more fully understand the checks and balances and counterweights that did happen.

Mr. Taylor: I would not perceive your process as a love-in.

Mr. Bassel: No.

Mr. Taylor: However, this morning we heard messages of peace flowing from your work. Ms. Caplan was the dove delivering that message this morning. I was hoping Bill 51 would not be an act of permanent war after listening to all the representations. You have settled my mind somewhat as far as the process is concerned and the consensus you have brought about by reason of your deliberations. I thank you very much.

The Acting Chairman: Terrific. We are ready for the next chapter of Tolstoy's effort.

I am a little hesitant for us to start on the next section without having a few more members. The idea is that every member has a chance to take a look at the proposed amendments. Ms. Robinson and Mr. Bassel will be here to assist us. Do each of you have a copy of Bill 51?

Mr. Reville: I should think that would be etched on their brains by now.

The Acting Chairman: Do you have the newly printed one with the additions marked in it?

Ms. Robinson: Yes.

The Acting Chairman: Do you need a couple of minutes to round up the rest of the troops? We will take a five-minute break.

The committee recessed at 3:51 p.m.

16:06

The Acting Chairman: The five-minute break was over 10 minutes ago.

Before we start, there is one order of business. I am sure members will be interested to learn that this committee will meet on Mondays, Wednesdays and Thursdays after routine proceedings when the House is sitting. In case you have forgotten, that is approximately from 3:30 till 6:30. This committee will commence clause-by-clause consideration of the bill on Wednesday, October 15--that is next Wednesday--and we will continue on the above schedule from October 15 to completion of the bill. That is Mondays, Wednesdays and Thursdays after routine proceedings, starting next Wednesday.

If everyone is geared up and if you have this reading material in front of you--this not the great Canadian novel, however--page 1, section 1, the arrows indicate two additional parts: one, a definition of "economic loss," and the other, a definition of "financial loss." These are new sections that have been added.

Perhaps the best way to proceed is to have the ministry staff give us a brief description of what these two parts are about. Then if there are any questions, all members please feel to ask questions. Feeling free to ask questions is not the same as feeling compelled to ask questions.

Ms. Caplan: I am glad you clarified that.

The Acting Chairman: Would you care to elaborate on the "economic loss" and "financial loss" definitions?

Mr. Laverty: Yes. The definition of "economic loss" has been changed from the initial draft because the wording of that initial draft would have meant that the concept of economic loss would not be defined in those cases where a financial loss was being experienced. In other words, it was a drafting error.

The revision to the definition of "economic loss" provides such a definition. This revised definition is necessary in order to do the calculations in section 77, which occur both when there is a financial loss and when there is only an economic loss being experienced. This is a technical amendment put forward to make the act make sense.

Mr. Reville: Question.

The Acting Chairman: Just before you start, in referring back to the original drafting, you will note there is a definition of "economic loss" but not one of "financial loss," and the revision has two definitions instead of one. It may be of some assistance if you want to refer back and forth between the original one and the revised one. If members do not have both copies, perhaps the clerk could help.

Ms. Caplan: May I ask a question of the ministry staff? Was the difficulty here because in the original definition of "economic loss" the term "financial loss" was there but it was without definition?

Mr. Laverty: No. The problem in the initial definition of "economic loss" was in the phrasing, such that strictly speaking--that is, strictly interpreting the English-language presentation--"economic loss" was being defined only in cases where a financial loss was not being experienced. This

is a technical drafting flaw that we have tried to clear up in the draft of the legislation we are putting forward for amendment.

16:10

The Acting Chairman: In keeping with the motion you folks passed earlier this afternoon, we have been joined by Ms. Robinson and Mr. Bassel. As we go through these sections, if you want to ask questions of the ministry staff or these two experts, please feel free to do so. Just indicate of whom you are asking the question.

Mr. Reville: I guess I should direct my question to Mr. Bassel. Welcome to the committee, sir.

Mr. Bassel: Thank you.

Mr. Reville: As a full member; a voting member too, I expect.

The Acting Chairman: He is on a per diem. We just put that in.

Mr. Reville: No, that was there already.

I am sure the definition is improved from your point of view, but it still does not deal with the question of what is equity. A number of landlords said "equity" is not defined anywhere in the act. Are you still troubled about that?

Mr. Bassel: The understanding that was reached at the Rent Review Advisory Committee must be reflected in either the act or the regulations. I am not a lawyer and I do not know whether it is necessary for it to be in the act. We understand what we mean by equity and I hope that transmittal will end up in the administration of the act.

Mr. Reville: The problem with that is that the courts and the rent review moguls may not have the same understanding as you do now. Could you tell the committee what you understand by "invested equity," so that we know what is in your mind?

Mr. Bassel: We are talking about post-1975 buildings now, I believe.

Mr. Reville: Yes.

Mr. Bassel: What section are we on?

Mr. Laverty: Section 77 covers the definitions that are relevant for the purposes of determining the economic loss, especially subsection 77(1), which defines what the rate of return is to be calculated on. That is found in the portion after clause 77(1)(b), which indicates components.

Mr. Bassel: The definition of "equity" in the case of a building purchased would be the difference between the mortgage financing and the purchase price.

Mr. Laverty: Regulations are in the process of filling out even further what "equity" refers to.

Mr. Reville: Will that be in the regulations?

Mr. Lavery: Yes. The definition of "equity" ultimately includes the valuation of the land and the building, all the elements that would be included in them, as well as the definition of "debt." It runs on for several pages. It is a very complex process and one we are approximately halfway through in defining.

Mr. Reville: Another process about which the committee is in the dark.

Mr. Lavery: At this time.

Mr. Reville: That was a gratuitous remark, Mr. Chairman.

The Acting Chairman: I did not think it was a question. Are you finished, David?

Mr. Reville: Maybe.

The Acting Chairman: For now.

Mr. Reville: Yes.

Mr. Gordon: Do I understand you to say that this definition of "economic loss" means essentially that if the landlord is not getting what subsection 77(1) says he should be getting in revenue, he is experiencing an economic loss?

Mr. Lavery: Only to the extent that it does not involve a financial loss.

Mr. Gordon: Why do you not fill me in on that too? I would like to get beyond this definition today.

Mr. Lavery: I am sure we all would.

Mr. Gordon: Five o'clock comes soon.

Mr. Reville: We agreed we would spend two hours on this. Now what is the matter?

Mr. Gordon: I am sorry, I forgot. I have another meeting.

Mr. Lavery: The definition of "financial loss," as we will see in a minute, essentially describes the circumstance in which costs are greater than revenues. That is the ordinary understanding of that term. The economic loss covers between the break-even point and the point at which they are earning the rate of return described in subsection 77(1).

Mr. Gordon: Between the break-even point and when they start earning what you say they should be earning in subsection 77(1).

Mr. Lavery: That is correct.

Mr. Gordon: Okay. How do you determine the break-even point and what they should be making in subsection 77(1)? How would we put this on a graph? Do you have an overhead projector or anything that you could put it on?

Mr. Reville: Should we adjourn until we get a projector?

Mr. Gordon: I am serious about this. How do you determine it? You know I am going to have to explain this to my caucus. You have to make it crystal clear so that not only I understand it but also Mr. Bernier and Mr. Jackson sitting beside me understand it, so that they would have no trouble if I could not do it. Will there be a regulation to cover this?

The Acting Chairman: To cover what? Your request for an overhead projector?

Mr. Gordon: No. Determining the point on the graph between the break-even point and subsection 77(1).

Mr. Epp: I think he is looking for a few examples so everybody can understand.

Mr. Gordon: Simple.

The Acting Chairman: If it is of help to the committee, possibly the staff can take that under advisement and come back next week with some examples on a screen. If you want to do that, that is fine.

Mr. Epp: Or on paper.

Ms. Caplan: Mr. Chairman, now I know why they made you chairman.

Mr. Gordon: Let me get this clear in my head.

The Acting Chairman: Okay. Try again.

Mr. Gordon: Economic loss is the point between the break-even point and subsection 77(1). Now is that correct?

Mr. Reville: I do not know.

Mr. Gordon: I would be interested in hearing what RRAC committee members have to say about this. I know they worked on it and probably spent until six o'clock in the morning ironing out the details. It is too bad we do not have Mr. Goring with us right now with his little calculator. We could bring him in here.

Ms. Robinson: I will take a stab at it. If I understand your question, there are two losses, financial loss and economic loss. If you assume that a landlord is experiencing both, you start--

Mr. Gordon: Let us define financial loss for the committee.

Ms. Robinson: That is what I am doing. Assume that there is a financial loss. That is the difference between the revenue that is being collected and the expenses that are allowed through the rent review process. The point at which you eliminate the financial loss is the point at which revenue equals those expenses.

Mr. Gordon: Run through that again, slowly. The financial loss--I guess that is in the next section. Does it say it there? No, it does not explain it the way you are explaining it. It is a good thing we have RRAC with us. Financial loss is--I am not an accountant.

Ms. Robinson: It is the difference between the revenue and the expenses that are allowed by the rent review process.

Mr. Epp: On an annual basis.

Ms. Robinson: On an annual basis.

Mr. Gordon: Revenue and and expenses. On a yearly basis?

Ms. Robinson: Yes, on an annual basis.

Mr. Bernier That is the rent received and the cost of operating the building.

Ms. Robinson: Yes. The costs as allowed by rent review.

Mr. Bernier: Costs as allowed, on a one-year basis.

Ms. Robinson: Yes. It is different from costs as generally allowed by generally accepted accounting principles.

Mr. Gordon: I suggest, Mr. Chairman, that we have some kind of overhead projector.

The Acting Chairman: I do not want to short-circuit the conversation. The general tone of the questioning is that members would appreciate more in-depth information with respect to financial loss and economic loss. Maybe it would be appropriate to ask the staff to prepare some visuals and aim for next Wednesday following routine proceedings. It will be the first item to go up on the screen. We will leave this section for now and come back to it on Wednesday when we have some visual material to look at.

16:20

Mr. Gordon: That is a very positive suggestion, but at the same time I would like to have some time to think over the explanations that I am going to be given now. When we get the visuals and everything, we will really all understand.

The Acting Chairman: Okay. For starters, does the committee agree to try to obtain some visual presentation?

Mr. Church: Could I ask a question of clarification? The issue Mr. Gordon was getting at is one of the issues of rent determination. Perhaps it would be useful if, in fact, what we prepared was a fairly detailed description of rent determination under this bill and the sections that relate to it so that you would have that in a comprehensive form. In addition to that, we could run through some examples on an overhead if that is what you are looking for.

The Acting Chairman: Is that what you are looking for?

Mr. Gordon: What Mr. Church is talking about is an expanded explanation. That is what we need; anything that broadens our horizons and helps us to better understand. I would like to have this run through and then I think staff knows full well what it has to do in order to bring our understanding up to the optimum point on the graph. You go ahead; you have been doing very well, I can tell.

Ms. Robinson: Okay.

Mr. Gordon: Financial loss.

Ms. Robinson: Financial loss is eliminated at the point where the revenue equals the expenses. We call that break-even. If the landlord is breaking even, he is experiencing an economic loss, which is another way of saying he is not receiving a rate of return.

Mr. Gordon: Say that again.

Ms. Robinson: Another way of saying that a landlord is experiencing an economic loss is saying that he is not receiving a rate of return on his investment or that his rate of return is zero.

Mr. Gordon: When you start talking about investment, you are moving away from rents equalling expenses. You are getting into the amount of money he has invested in the plant.

Ms. Robinson: It relates.

Mr. Jackson: What tenants call profit and what landlords call return on equity.

Ms. Robinson: Yes.

Mr. Jackson: Or return on investment.

Ms. Robinson: This bill calls it economic loss.

Mr. Jackson: I understand it; I am just trying to be helpful.

Mr. Gordon: What is the economic loss?

Ms. Robinson: The economic loss is the amount the landlord is not collecting, which is the rate of return on his invested equity. The invested equity is calculated. The rate of return is determined by the legislation and that is Canada bond rate plus one per cent. Right now that means 10 per cent. Therefore, the rate of return on his investment is 10 per cent of his equity.

The economic loss is the portion of that amount that the landlord is not receiving or the portion of that amount by which revenue does not exceed expenses. To eliminate economic loss, revenue is brought up to the point that it exceeds expenses by the return calculation.

Mr. Gordon: We need a graph.

The Acting Chairman: We need more than that.

Mr. Lavery: In the absence of anything else, would a numerical example assist you?

Mr. Gordon: It would, yes. Why do we not use something concrete? That is very good.

Mr. Lavery: I will give you two examples. The first example will have revenues of \$90,000 and costs of \$100,000. That would mean a financial loss of \$10,000. If the equity invested in the project was \$50,000 and we were using the 10 per cent figure, being a building between the beginning of 1976 and the end of 1986, at 10 per cent--

Mr. Bernier: Equity is the difference between the mortgage and the purchase price.

Mr. Lavery: Yes, if you are purchasing the building. If the equity was \$50,000 and the rate of return was 10 per cent, then the equity the landlord would have to earn to be earning the full rate of return would be \$5,000. In this first example, the landlord would have a financial loss of \$10,000 and an economic loss of \$5,000.

Let me give the other example.

Mr. Gordon: Before you give me the other example, what you are really saying is that economic loss is directly related to the invested equity that he has in the plant, apartment building or whatever.

Mr. Lavery: Yes. It is a return on the equity as determined under section 77.

Mr. Gordon: Yes, but on invested equity.

Mr. Lavery: Yes, and that includes, as section 77 indicates, initial equity plus capitalized financial losses.

Mr. Gordon: Okay. When you talk about capitalized financial losses, do you want to broaden that a little further and tell me what that means to you?

Mr. Lavery: If you lose \$10,000 in year one and \$5,000 in year two, then you have experienced losses for the two years of some \$15,000; so it is the sum of the financial losses to date.

Mr. Gordon: You put those two together and that is economic loss.

Mr. Lavery: Yes.

Mr. Gordon: Do you want to give us the second example now?

Mr. Lavery: The second example has revenues of \$102,000 and costs of \$100,000. This means he is making a profit of \$2,000, which means the financial loss is not being earned. The calculation of economic loss would start from the \$5,000 in the previous example, assuming the same equity and the same rate of return. Subtracting the \$2,000 profit he has experienced would mean that in this circumstance the landlord had an economic loss of \$3,000.

The Acting Chairman: Mr. Gordon, one of the staff people wanted to--

Mr. Richmond: I think it has been covered. There is only one thing I was going to point out to you, Mr. Gordon. I am not an economist, nor are you. Just to clarify with regard to the economic loss, my understanding very simply is that it is a provision to allow landlords of new buildings--post-1976 to 1987, and then there is a different provision for new buildings after 1987--to catch up to earn the rate of return as specified in section 77.

Quite simply, that is my understanding. I do not know whether that helps you. I do not whether Mr. Lavery has a different understanding, but that is my understanding of it. Then you see the detailed provisions on page 36 to allow them to phase in these catch-up provisions. That, in layman's terms, is my understanding of the whole situation.

Mr. Gordon: That is very good. If we could have on--not Monday; I guess it would be on--

The Acting Chairman: Wednesday.

Mr. Gordon: --Wednesday, an explanation of all this, plus some examples, plus some of the things Gardner Church talked about, that would be very helpful.

The Acting Chairman: We have been chatting about the request.

Mr. Church: If I may, in the subsequent questions you had asked, Mr. Gordon, in following up that question, you get into costs no longer borne and a whole series of other items. We will try to have it by Wednesday, but I would request the committee's compassion. Mr. Lavery has only so many hours in a day. We will get them as quickly as we can.

Mr. Gordon: I understand.

The Acting Chairman: Did you have some more questions on this?

Mr. Reville: Yes, I did.

The Acting Chairman: I meant Mr. Gordon.

Mr. Gordon: No. I am prepared to stand down for a second. Perhaps you would, Mr. Bernier.

Mr. Bernier: I will wait for the explanation.

Mr. Reville: When you read economic loss and financial loss together, I assume it is possible to get relief under both those definitions at once. It also looks as if there is a double relief here under economic loss that worries me a bit. If that includes capitalized losses of previous years, at what point do you cut them off so that the tenant does not pay twice for these losses?

Mr. Lavery: There are two different concepts. One of them is the capital base and the other one is the amount awarded for a current financial loss in terms of the awarded increase in maximum rent. Under section 77, what you are doing when you earn an actual loss in any given year is getting a certain amount added to your capital base. Under subsection 77(2), which deals with the phasing out of financial loss, the award in the first year is in both (a) and (b) for the full elimination of that particular loss after which no further loss award would relate to the elimination of financial loss per se. The only question from that point onward is whether the landlord is actually losing additional money and, therefore, putting additional money in terms of investment into his building.

16:30

Mr. Reville: So the words "capitalized loss" can never refer to a capitalized operating loss.

The Acting Chairman: Mr. Bassel, you wanted to say something.

Mr. Bassel: I want to try to make it clear that the capitalized losses would only be those losses that were not recovered. It is not possible

for the tenant to pay twice. By definition, a capitalized loss can only be capitalized if it has not been recovered. It cannot happen that a tenant would pay twice for the same loss.

Mr. Reville: Surely it could happen that a landlord could apply through the process to recover economic loss, which includes capitalized loss and financial loss, and could recover under both.

Mr. Bassel: Yes.

Mr. Reville: But he is then estopped in the future from recovering on a financial loss.

Ms. Robinson: Economic loss does not include capitalized loss; it includes a return on the capitalized loss. In other words, the capitalized loss is the money the landlord puts in the building that has not been recovered. That adds to his investment. He is getting a return on that money he put in that he never recovered. He is not getting the amount of loss; he is getting return on the loss as if that loss were his investment. At the point where he reaches break-even, he is not experiencing any more capitalized losses, but everything he lost before that is his investment and that adds to the amount of money on which he receives a return.

Mr. Reville: These are capitalized losses from year when? Day one?

Ms. Robinson: Day one.

Mr. Bassel: From the year of building the building.

Mr. Gordon: These are post-1975.

Mr. Reville: So it could be 10 years of capitalized losses.

Ms. Robinson: If he lost a hell of a lot of money.

Mr. Bassel: It could be.

Mr. Reville: An interesting retroactivity notion.

Ms. Caplan: Do you view that as retroactivity or recognition of the capitalized losses that exist today? I have some problems with the word "retroactivity" because I do not see it as retroactivity at all.

Mr. Bassel: Can I try that? If I start by investing \$500,000 in a building in 1978 knowing that for the first two or three years of its life it will lose money, I have to be prepared to invest extra money in that building during those years. That is what the capitalized loss is. It is the money value of what you have to invest in those years until it breaks even.

It is like starting any business. You might invest \$1 million in plant and equipment and then you may have to invest a whole bunch of money while the building is in a loss position. If you went out and bought bonds with that money instead, you would have a return on investment. That is what this is trying to cover, the loss of interest or return on that additional investment. I do not know if that makes it clear for you.

Mr. Reville: It means you could invest.

Mr. Bassel: No, it does not.

Mr. Reville: Yes, because you already built in your discounted cash flow when you designed the building, and now the tenants will pay for it as well.

Mr. Bassel: No. We are talking about cash-on-cash return, Mr. Reville. We are not talking about discounted cash.

Mr. Reville: Do you not do discounted cash flow when you design a building?

Mr. Bassel: No.

Mr. Reville: Why not?

Mr. Bassel: Because it is a very primitive industry, and we talk about cash on cash.

Mr. Reville: Maybe that is one of the problems with the industry; it is too primitive.

Mr. Bassel: It may be.

The Acting Chairman: I am sure the audio-visual presentation will make all this crystal clear. Are there any more general comments or questions? We will start with Mr. Bernier and then come back to the table.

Mr. Bernier: When they bring back the visuals, will they take a typical building, a number of apartments, and just go through theoretically and show us if there is a 10 per cent loss, what will happen to the rent one year, so we can get a real picture? That seems to be the nub of the whole thing.

The Acting Chairman: Yes. I think members are looking for some actual examples, where you take a building of so many units and do a rent calculation, etc.

Mr. Church: We have run quite a number of buildings and we would be delighted to do that. I might also suggest that in instances such as these, for example, in this question of how you define the equity base, there are a number of alternative ways available, academically, to define equity base. It may be useful to the committee members also to understand the alternatives RRAC considered in terms of things such as present value minus debt, the whole slew of other possible equity bases. That might particularly help Mr. Reville's clarification.

The Acting Chairman: Is there any other question on this section?

Mr. Gordon: I think we should do it now, because this will prepare us for next week some time.

We talked about what economic loss means, and then we said it would be made applicable to that residential complex by subsection 77(1) but it does not include financial loss. Perhaps the good doctor, Ms. Robinson or whoever would like to run through 77(1) with us, give us a full explanation of each term that is used there and give us a concrete example. It would help the committee. I know you spent about six months developing this, but perhaps the next five minutes or so would help us.

The Acting Chairman: Is it agreeable with the committee to flip to section 77?

Ms. Caplan: Before we do that, I would like to clarify one thing. When you are talking about this, and I would go to Mr. Reville's point, you are talking about the accumulated loss as opposed to any kind of retroactive loss. Is there an accumulation of the loss projected at the time of building and a recognition that if that does not come forward, you could face bankruptcy?

Mr. Bassel: Can I give you an example that is slightly different? If you buy a house for \$100,000 and you have to spend \$20,000 to upgrade it, your total cost is \$120,000. If you get anything less than that, it is a loss. If you get \$130,000, you make a \$10,000 profit on it.

I do not know if that helps clear that up. It is not analogous but--

Ms. Caplan: Yes.

Mr. Gordon: It is a clear example.

Ms. Caplan: Thank you.

The Acting Chairman: I think Mr. Gordon's suggestion is a good one. Section 77 is on page 35.

Mr. Gordon: I want to think about it over the weekend.

The Acting Chairman: Yes.

Mr. Gordon: It sounds like a good thing to think about while I am eating my turkey.

Mr. Bernier: You can afford turkey?

The Acting Chairman: Rather than getting into discussions about turkeys, if you will turn to page 35, you will note there are a couple of things. The parts that are underlined are additions, as well as, over the page, an entire new section. If you want to start at subsection 77(1), perhaps staff can take us through the proposed changes.

Mr. Gordon: Or an understanding of what subsection 77(1) is saying.

Mr. Laverty: Do you wish us to go through the changes or sort through the whole section?

Mr. Gordon: Through the section. I want clauses 77(1)(a) and (b).

Mr. Laverty: Subsection 77(1): "The rate of return"--which is what we are going to be defining in this section--"in respect of a residential complex, no part of which was occupied as a rental unit before the 1st day of January, 1976"--that obviously refers to the buildings that were previously exempted from rent review under previous legislation, the Residential Tenancies Act--"and the building permit for the construction of which is issued," so you would fall under category (a) or (b) depending on the date the building permit was issued.

If the building permit is issued "on or before the 1st day of January, 1987," that rate of return will be 10 per cent. If it is after January 1,

1987, in RRAC's consideration, we would want the rate of return to be sensitive to future fluctuations and financial conditions in order to attract capital into the industry.

The particular recommendation they came up with was this three-year moving average; that is, the average of the past three years or the average of the past 36 months. The purpose of the three-year moving average was to reduce the degree of fluctuation in the rate of return to make it more stable as of the year in which the building permit is issued, so that any building permit issued in 1987 would get the rate of return appropriate to that designated for that year.

16:40

It will be the rate of return of the Canada bond rate for 10 years and over plus one percentage point. The Canada bond rate for 10 years and over is published weekly by the Bank of Canada as part of its general financial statistics. It is generally regarded as a low-risk security, and one percentage point was added by RRAC in the recognition that either the risks or, alternatively, the amount of administration in investing in the building might well be higher than investing in Canada bonds.

Mr. Gordon: Can I ask a question, Mr. Chairman?

The Acting Chairman: Herb actually was next, and then you.

Mr. Epp: The explanations and the formulas are complicated enough. Why would you add to that complication by picking January 1 of a new year rather than December 31? Why would you not say as of December 31, 1986? Why would you go one day into another year and complicate things?

Mr. Laverty: The reasoning here is that for 1987 as a whole you would have one rate designated.

Mr. Epp: No, it is not. You have taken one day out of it.

Mr. Laverty: Yes.

Mr. Epp: Why would you do that?

Mr. Laverty: That is a good question. Why did we do that?

Mr. Epp: Can I suggest we amend it?

The Acting Chairman: Not right now.

Mr. Gordon: Let us not get excited here. We might upset the delicate balance.

The Acting Chairman: That is right. I would not want one day to upset the entire--

Mr. Church: Without any fear of contradiction, RRAC and the minister both would be unmoved by a change in the day. But I think the practical effect of January 1 and December 31 is the same, since January 1 is a nontrading day. After December 31 or after January 1 is for all practical effect the same day.

Mr. Epp: What if three years down the line somebody makes January 1 a trading day? All of a sudden you are out to lunch.

Mr. Church: If the municipal offices also open and if they issue building permits, we would have a problem.

Mr. Epp: Aside from that, I am saying from a practical standpoint, keep it all in one year and do not go one day into the next year. If you went six months, I could understand it; but one day does not make sense to me.

The Acting Chairman: Your concern is duly noted, and we are coming back to this later to give members a chance to think about it.

Mr. Gordon: I want to zero in on this for a moment. You say after January 1, 1987, is the three-year moving average of the Canada bond rate. You mean the three-year average of that bond--and I guess this is what is confusing--for the 10 years. Now I understand you to say that is some kind of financial mumbo-jumbo and there is a special bond rate. Do you want to explain that 10-year business?

Mr. Laverty: Canada bonds are issued with a range of maturities; some bonds are issued to mature in five years, some are issued to mature in 10 years, 15 years and so on. We are talking about the length of time to maturity of the bonds involved. A bond that is maturing on this date in 1998 would have 12 years to go until it matured; that is repaid to the holder by the Bank of Canada. That bond would have a life of more than 10 years, and its yield would be part of the 10-year-and-over bonds that would be used by the Bank of Canada in calculating that rate. It is the average of all the bonds with more than 10 years to maturity.

Mr. Gordon: This says, "of the Canada bond rate for 10 years." In the explanation you have given me, you said some bonds are five-year bonds and some are 10-year bonds.

Mr. Laverty: Yes.

Mr. Gordon: And you are talking the 10-year bonds.

Mr. Laverty: Yes. We are taking the long-term bond rate, because a residential building is presumably an asset that is going to last for a long time.

Mr. Gordon: You take a three-year moving average of that 10-year bond.

Mr. Laverty: Of the average of bonds that are 10 years and over, yes.

Mr. Gordon: Ten years and over, not 10 years?

Mr. Laverty: Ten years and over.

Mr. Gordon: Then why would you not say 10 years and over?

Mr. Laverty: That is what we do say.

Mr. Gordon: I am sorry; of course you do. You take that three-year moving average of the 10-years-and-over bonds.

Mr. Laverty: Yes.

Mr. Gordon: Then you add one per cent.

Mr. Lavery: Correct.

Mr. Gordon: What would be the three-year moving average in the past month or two of the Canada bonds that are 10 years and over?

Mr. Lavery: I could not answer that question now.

Mr. Gordon: Could we have that answer the next time we meet?

Mr. Lavery: Would that be tomorrow or next week?

Mr. Gordon: We are not meeting tomorrow, are we?

Interjection: Oh, yes.

Mr. Gordon: We are? Why are we meeting tomorrow?

Ms. Caplan: (Inaudible) 1997.

Mr. Gordon: I am sure we can assure you it will pop out before then.

Ms. Caplan: At this rate, I am not too sure about that.

Mr. Gordon: Ms. Caplan, I am sure you realize these people who are advising us have had hours and days and weekends of meetings over this very subject we are talking about, which is the core, the heart of the bill, the financial aspect of it. If we take time to really understand this, so we can explain it to our constituents and to our caucus, then we will be doing very well.

Mr. Taylor: Excuse me for chuckling, and I should not have done so out loud, but I was mentally figuring the number of constituents in my riding who would be fascinated by this matter.

The Acting Chairman: Breathless. Are there any more questioners waiting to pick this up?

Mr. Taylor: They will be addressing their fascination to me.

Ms. Caplan: He has thousands.

The Acting Chairman: Prince Edward county is fascinated with you, Mr. Taylor.

Mr. Gordon: We know your average.

The Acting Chairman: Speaking of fascinating, do you have any more questions?

Mr. Gordon: I am waiting for them to go on to the next part, the landlord's initial invested equity and so forth. You do very well, Pat. You can get a job teaching in a high school some day.

Mr. Lavery: Thank you. We are going on to explain what the rate of return is calculated on. There are three things, the first of which is the landlord's initial invested equity; that has been commented on by RRAC in recommendations 1 to 5 on page 4 of its April 18 report. You will be glad to know that is in the process of being further detailed by regulation.

Mr. Gordon: I thought you were going to change it.

Mr. Laverty: No.

Mr. Gordon: If we want to do some homework, we read pages 1 to 5.

Mr. Laverty: No. Just page 4, recommendations 1 to 5, would be the direction given to us by the advisory committee which we are following.

Mr. Gordon: We take the landlord's initial equity plus the principal portion of any debt not otherwise allowed. How is that?

Mr. Laverty: This one is really fun.

Mr. Gordon: It sounds like something out of Alice in Wonderland.

16:50

Mr. Laverty: Under rent review, when you purchase a building the maximum debt allowed has been 85 per cent. This rule has been in place for quite a number of years, the rationale being that landlords should have a minimum financial stake in the building. If they were overleveraging, i.e., having too much debt on a building, it should not pass through to the tenants in times when you are calculating the financial loss, which is under section 76 in this bill.

Mr. Bernier: Is that in the entire province? Are you using 85 per cent for the whole province?

Mr. Laverty: Yes. The 85 per cent rule applies across the province. We are talking about the debt beyond 85 per cent. If the debt is 90 per cent of value, five per cent is disallowed for the purposes of debt; however, if you are not allowing it as debt, the landlord in this case is allowed to claim it as part of his equity, because it is part of the overall purchase price.

Mr. Gordon: You are looking at debt over 85 per cent.

Mr. Laverty: Yes. Therefore, it would not qualify for debt pass-through. However, because we are disallowing it for debt pass-through, we feel it is only fair to allow it to them as part of their equity.

Mr. Gordon: You will take what you do not allow under the 85 per cent maximum debt rule and allow it under landlord's initial invested equity.

Mr. Laverty: Yes. If you disregard the actual costs of the payment of debt of the landlord, in this circumstance it is only fair to allow it to him as part of his equity. That is the rationale.

Mr. Gordon: Will we get a fuller explanation of all this?

The Acting Chairman: There are two parts. First, staff members are prepared to come back at some point next week with a presentation; they will attempt to cover the heart of the matter, as you have mentioned.

Between now and then, all members of the committee are welcome to approach the staff. If you want a private briefing or some specific information, the staff is quite prepared to try to accommodate you. It would be helpful in the process if all members could attempt to do all that and, when

you have concluded the little slide show you will see some time next week, be prepared to move in a quicker fashion.

I know this stuff is difficult. I do not understand half of it. At the same time, staff is available, and I think the visual presentation will make it easier for all of us.

Mr. Gordon: I beg to differ with you. Given the number of hours we already spend and will spend in this committee, I think it is important that we get the explanations here. As legislators in this House, we have many other subjects for which we are responsible.

With the complexity of this bill, if we follow your advice, we will not do anything but housing and we will become like RACC, which has spent--and its members are all exhausted--hours beyond anybody's comprehension. That is not our purpose as legislators. If you cannot explain it at this table and it cannot go into Hansard in a form the public can understand, it is a lot of baloney.

So, no; absolutely not.

The Acting Chairman: I do not want to be misunderstood. What I have indicated is that all members of the committee may, if they wish, approach members of the staff for information. If no one wishes to do so, that is fine. The staff has simply indicated that if members have particular concerns or interests, it will do its best to give them the information.

Mr. Taylor: Sort of a night school for slow learners.

Mr. Bernier: Private tutoring.

The Acting Chairman): In this committee, we will get a visual presentation based on the very questions you asked, which I agree are probably the heart of the bill. The staff will have a visual presentation on that for us at the earliest moment next week--Wednesday, Thursday or Friday, whenever it happens to be. Mr. Epp, you have a question.

Mr. Epp: There is nothing new about that. The staff have often made themselves available for this, and sometimes people do not want to raise points in a committee--

Mr. Gordon: I have no objection at all to your going and asking. I understand what you are saying.

Mr. Epp: There is no problem with that.

Mr. Gordon: I am just saying that if we cannot understand it here, we are going to have a hard time understanding it out there. I think we should rise and report, Mr. Chairman.

The Acting Chairman: I understand that. Can you hold on for a second? Are there any more questions with respect to this part from any of the other members?

Mr. Gordon: I will be returning to this part next week.

Mr. Taylor: I have one observation. It has been made clear that an explanation will be given to the full committee. We do not have to go to night

school for that. The persons presenting the explanation can guarantee the explanation, but in fairness to them I do not think they can guarantee the understanding. That is up to us.

Mr. Epp: Right on.

The Acting Chairman: No one would want to guarantee your understanding; nor the chair's, for that matter.

Before we complete things, I remind the members that when we sit tomorrow at 10 a.m., the first item of business will be the appearance of Ms. Hogan and Mr. Grenier, who co-chair the RRAC committee. That is your first item of business at 10 a.m. This has been such a delightful experience today that I am coming back tomorrow.

The committee adjourned at 5:57 p.m.

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Government
Publications

STANDING COMMITTEE ON RESOURCES DEVELOPMENT

RESIDENTIAL RENT REGULATION ACT

WEDNESDAY, OCTOBER 8, 1986

Morning Sitting



STANDING COMMITTEE ON RESOURCES DEVELOPMENT

CHAIRMAN: Laughren, F. (Nickel Belt NDP)

VICE-CHAIRMAN: Ramsay, D. (Timiskaming NDP)

Bernier, L. (Kenora PC)

Cordiano, J. (Downsview L)

Epp, H. A. (Waterloo North L)

Knight, D. S. (Halton-Burlington L)

Pierce, F. J. (Rainy River PC)

Reville, D. (Riverdale NDP)

Smith, E. J. (London South L)

Stevenson, K. R. (Durham-York PC)

Taylor, J. A. (Prince Edward-Lennox PC)

Substitutions:

Caplan, E. (Oriole L) for Mr. Knight

Gordon, J. K. (Sudbury PC) for Mr. Pierce

Jackson, C. (Burlington South PC) for Mr. Stevenson

Warner, D. W. (Scarborough-Ellesmere NDP) for Mr. Laughren

Clerk: Decker, T.

Staff:

Richmond, J. M., Research Officer, Legislative Research Service

Witnesses:

From the Ministry of Housing:

Curling, Hon. A., Minister of Housing (Scarborough North L)

Peters, F. H., Executive Director, Rent Review Division

From the Rent Review Advisory Committee:

Hogan, M., Co-Chairperson

Grenier, W., Co-Chairperson

Amaya-Torres, P., Member

Schwartz, J., Member; President, Multiple Dwelling Standards Association

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON RESOURCES DEVELOPMENT

Wednesday, October 8, 1986

The committee met at 10:17 a.m. in room 228.

RESIDENTIAL RENT REGULATION ACT
(continued)

Consideration of Bill 51, An Act to provide for the Regulation of Rents charged for Rental Units in Residential Complexes.

The Acting Chairman (Mr. Warner): The committee is now in session. The chair sees a quorum. There is at least one member from each party.

Before we begin the items on your agenda, I wish to draw to members' attention a couple of little housekeeping items. One, you each should have an agenda for today. Second, you should also have a copy of an excerpt from the Globe and Mail of Wednesday, October 8. You should also have a memorandum directed to you from David Neufeld, a research officer, regarding rent controls in selected European countries. That is a two-pager. If anyone does not have any of these items, please see the clerk.

Finally, and most important for today, I draw your attention to a document, quite a few pages long, which is the third edition summary of Bill 51, the briefs and oral testimony. I suggest to members that we handle it in the following way.

Your researcher has agreed to go over the highlights of this document. I suggest that be done at two o'clock. Members have between now and two o'clock to peruse the document. At two o'clock, after Mr. Richmond has gone over the highlights of this, if you have any questions, that will be the time to ask them. I believe that will expedite things.

On our first item, we have Bill Grenier and Ms. Mary Hogan, who are the co-chairpersons of the Rent Review Advisory Committee, here this morning to advise us, I guess, and answer questions.

Ms. Hogan: More or less.

The Acting Chairman: The floor is yours.

RENT REVIEW ADVISORY COMMITTEE

Ms. Hogan: I will start. I will be fairly brief in my prepared remarks. My friend Mr. Grenier tells me he is going to agree with everything I say, so we should be fairly brief this morning.

As most of you will recall, we appeared in August at the commencement of these public hearings to discuss the RRAC report and its embodiment in Bill 51. Since then, you have heard numerous groups and individuals comment on the bill. I think perhaps Mr. Grenier and I are a bit battered and bruised as a result of some of those comments, because some of them have been less than enthusiastic with regard to the bill and our efforts on RRAC.

However, despite this, I and the tenant members--and I think you are going to hear the same thing from Mr. Grenier--still stand by the RRAC agreement that we signed and those provisions of Bill 51 that incorporate the provisions of that agreement. It is fair to say that most of Bill 51, with the amendments, incorporates our RRAC agreement.

The tenant criticisms and the concerns you have heard expressed match the concerns of the tenant members of RRAC. You may remember that in August I said the bill was a series of compromises and was neither a landlords' nor a tenants' bill. In particular, we too were concerned by the higher rents that would result from the new guideline formula and just what impact this would have on tenants. However, we felt that what we were accomplishing in the longer run was worth those higher rents.

These accomplishments include: Better maintenance, through the establishment of a provincial maintenance board, and I will talk about that in more detail in a few minutes; increased supply, particularly at the low end; Bill 11, and I should point out for Mr. Grenier's benefit that this was not part of the agreement because the landlords refused to agree with Bill 11, but the tenants are very proud of that accomplishment in any event; increased protection for roomers and boarders, and a number of what I will call more technical amendments, such as costs no longer borne.

Part of our problem in gaining tenant acceptance of our package has been that the major landlord gains are pretty clearly articulated--an increased guideline, better treatment for capital improvements--whereas ours have not been so easily tied down. Some are longer term, some are outside the bill and some we are still in the process of fine-tuning. For example, we probably would have had an easier time had we been able to say to tenants months ago, "Here is what the maintenance board is going to look like, so for the increased rent that you will be paying we can definitely guarantee there will be better enforcement of maintenance, there will be better sanctions and you are guaranteed this." Unfortunately, we were not able to do that several months ago.

RRAC has been working very hard and into the early morning hours and, as of this morning, we have transmitted to the minister a final proposal for the maintenance board. I understand the ministry staff is now hard at work trying to draft the appropriate amendments, which should be ready next week.

There is, however, one outstanding point on the maintenance board. We were able to hammer out agreements on everything but the issue of representation on that board. The tenants wish to see landlords and tenants equally represented. We suggest a composition of 40:40:20. Let me explain that. We want to see 40 per cent tenant representation, 40 per cent landlords-developers-lenders and 20 per cent representative of others--for example, municipal representatives. We have not yet been able to get the landlords to agree to that.

I want to emphasize here, from the tenant point of view, that is very important. It is one of the fundamentals for us with regard to the maintenance board. We want to send the message to the tenant community about the significance of their role in maintenance. That can only be done with equal representation of tenants and landlords on that board. Therefore, when you consider the amendments you will be seeing with regard to maintenance, I would urge you look at them very seriously and, I hope, adopt the tenant position about representation on the maintenance board.

Also important and critical is the supply issue. Again, that has been a little bit difficult to pin down. You probably recall that the RRAC report recommended 3,000 units per year in addition to what had been committed already at the low end.

As of two days ago in the minister's announcement, those 3,000 units have now come for this year. Obviously, we are very pleased about that; however, I want to make one more plea: the RRAC report said we need 3,000 units every year. We felt that was very fundamental to the package and that those units be at the low end. It is fair to say the landlords and the tenants on RRAC are in total agreement that we should not be putting public money into the higher end; it has to go to the low end because of affordability and where the core need exists.

Before I conclude, I want to talk a little bit about the process. It too has been rather severely criticized. All I can say is that consultation is important. For the first time--and I said this in August--we saw the government and the senior bureaucrats opening up to consultation on both sides. That is a major step and one that must be continued.

There is no question that we have a housing crisis right now and that we have to do something about it. We have to deal with it through Bill 51 but also through a lot of other ways, in particular looking at the issue of supply and affordability. I do not believe the government or bureaucracy can do that in a vacuum. What was started through RRAC has to continue, perhaps through RRAC but through wider consultation as well.

You have heard from tenants who would have liked even wider consultation. That is important but, as I say, what happened was a first step. We should congratulate those who started that process but go on to make it even better.

As I said at the beginning, we have had some sticks and stones thrown in the last few months but all of us on RRAC who worked long and hard still believe in the process and still believe in what we came up with. We are still working hard to get some of the things that are not quite tied down but that we think can work. We urge you to do whatever you can to make sure it works.

The Acting Chairman: Thank you.

Mr. Grenier: Ladies and gentlemen, at this point you probably have heard so much from so many that no doubt you have been up one side of the issue and down the other.

First, Mary is quite correct and I concur wholeheartedly with all of her remarks. She has hit the nail exactly on the head. As I told her last night when we were meeting until 11 or 12 o'clock, whatever she said this morning I would agree with. We have managed to agree all along on virtually all the items; after some difficult and turbulent times, we eventually managed to reach agreement.

In the one outstanding issue, the maintenance board, we have agreed on substantially all of the items save one, which is representation. I will have to speak to that. That is the only note of dissent in the whole thing; I think it is a small dissent.

Landlords believe philosophically that they will not be able to manage, maintain, borrow and do all of the things that are required if they do not

have the right to manage their own assets, essentially. We have not viewed nor do we view that the tenants have a risk element in those assets. We have asked that we maintain a majority position on the maintenance board. We think this is critical from the point of view of lending confidence as well as builder confidence.

That is the only area on which we have been unable to agree, but we have been unable to agree in an extremely reasonable manner. This may bring us to the end of all the hearings on an excellent note.

When Mary and I first appeared before you, we asked you then, and we ask you now, to not allow too much politics to get into this. We said then and we say now that the more politics get into it, the less likely will the whole exercise be fruitful.

We fully understand, because we are all political animals, the requirements of the various parties to fly their own flags and be consistent with their own philosophies. We have no quarrel with that. Unfortunately, that flag-flying and philosophical consistency has gained us the difficulties we now have after 10 years. Again, I hasten to point out that is not to point fingers at anybody; it is simply the system and the understanding of how the political system works.

10:30

Yesterday the Toronto Star editorial said--although I do not always quote the Toronto Star as my favourite paper, I have to quote it in this context--"It's easy and politically popular for a government to impose rent controls; difficult and politically risky for a government to get out of them."

The difficulty we face is that nobody wants to put the bell on the cat. Nobody wants to be the first one to do it. So far, the onus has been put on the consumer and the provider to move in the direction of trying to ease the burden, at least. Let the credit fall wherever it may have to fall, but I think it has been an excellent procedure. It is one that all the parties--and forgive me if I am wrong on this--would welcome. The procedure has been useful. It has been an understanding that heretofore was not present and it may well go a long way towards curing the ills we face right now in the housing market.

Again, I would like to quote the Toronto Star, mainly to get it on the record. "On its ways through committee, the bill has attracted amendments galore, some of which threaten to upset the delicate balance"--I am sorry, Mr. Reville, for saying it one more time--

Mr. Reville: I like hearing it.

Mr. Grenier: --"of the developer-tenant compromise that spawned the legislation. Even with those amendments, however, passage remains uncertain. Yet the bill deserves passage precisely because it is a first step towards the end of rent controls that were justifiable as part of a package of anti-inflation measures but are counterproductive now that inflation has been tamed."

I do not know whether that fits everybody's book, but it certainly fits the situation we are in now. The Rent Review Advisory Committee does not request anything other than the passage of this bill. We are not asking for the end of rent control; we are asking for the system that would be put in place through this committee.

If, one or two years down the line or some time in the future, there is a different philosophical bent and a different reason for doing something, then God bless us all, let us look at it then. Right now we need Bill 51 to get on with the business of getting more housing and getting rid of the difficulties we now have.

It would be probably less than prudent in this instance to say anything more, other than a vote of thanks to the members of this committee who have sat around for days on end and listened, I am sure, ad infinitum and maybe even ad nauseam to the constant repetition of everybody's favourite piece of doggerel. I am sure you have heard enough to have the idea of what everybody is about and can put all the pigeons in the right holes.

If you sit down and look into your hearts and decide what is best for everybody as opposed to what is best for your party--and I realize how difficult that is--I think you will find that the efforts RRAC has put in will have been good, true and well-serving from the point of view of all the people affected. With that, Mary and I are prepared for questions.

Mr. Reville: Mr. Chairman, I feel a bit moved to begin with a speech. I hope you will ignore the fact that I am making a speech for just a minute. I think it is important to say to both the co-chairpersons it is my belief that all the members of the committee value the work they did. We have some differences about some of the conclusions they reached. At the end of your work I am sure you are feeling exhausted. I know you have had to struggle with positions and achieve some consensus on positions that you disagreed with violently.

I want to make sure you understand that the members of the committee, particularly the opposition members, are critical of the government, not of your committee. We value the work you did. It has brought all of us much closer to a better understanding of the problems we face in the housing market than we had before you began your work.

You may feel a bit bruised and you may think there were some sticks and stones, but it seems to me that, consistently throughout these hearings, the sticks and stones were not directed at your efforts, which we thought were valiant. The fact that not all of us agree with your conclusions is another matter.

We have got to the stage where now we are all going to be political. I do not doubt that we are all looking into our hearts and trying to do what is best in terms of housing. We are cognizant of the warnings that have been delivered to us time and time again by deputants to leave politics out of this.

It is my contention that there is hardly anything more political than housing. It is a vain exhortation to tell us to leave politics out of it. Each party has a political position about housing that is based on its view of the world. To ask us to jettison that political view of the world is to say we should all become eunuchs, and I do not think we are about to do that.

All of us who are politicians look at things through a set of filters that are informed by our ideology. I do not make any apology for my ideology, nor would I want anyone to make any apology for his. It seems we all approach this as fair-minded people. Thank you for allowing me to make that speech. I will now ask a question.

The Acting Chairman: Do you still have a question?

Mr. Reville: Yes. That was a speech, not a question.

The Acting Chairman: I realize that. I know it is tough to--

Mr. Reville: It seemed to me, since we have all walked down some roads together, it would be appropriate to make a little speech, so I did that. My question is--

The Acting Chairman: You have a question?

Mr. Reville: Sure. I have a number of questions. I always try to frame my questions so that the answers are of value to all the committee and to you too.

The Acting Chairman: Wonderful. Place your question.

Mr. Reville: In regard to the maintenance board, which is the outstanding issue for most of us because we are still not clear how it is going to work and we have had an opportunity to think about it a bit, when you say you have delivered your final proposal to the ministry this morning, does that mean you have resolved the standards question?

Ms. Hogan: When you say "resolved the standards question," the individual standards have not yet been set up. What we have said, and I can read it from our report, is that standards are to include but not be limited to structural integrity, health and safety, heating, plumbing, electrical, cleanliness, weatherproofing, elevators, security, fire and septic systems.

Obviously, it is going to take a fair bit of time to sit down and develop those standards and look at the existing standards now in the various municipalities and pick what I hope are the good points from each of the existing standards and put together a provincial set. What we have given is a general outline, and we are suggesting that there be some interim proposals for the first six months or so while these things get put in place. We all recognize it is a very major undertaking.

Mr. Reville: That is the point, to arrive at a set of standards from the jumble of standards we know exist that cause huge confusion for builders and consumers alike. It troubles me that we still have that process to go through because it seems to me that we must still be some distance away from having a set of standards that would be minimum standards and therefore would be applicable to all situations in the province.

10:40

Ms. Hogan: We want to make sure that when this is set up, it works and works well. I do not think anyone wants to make the mistake of going ahead quickly and setting up standards that miss something or exacerbate some of the problems.

Mr. Reville: I do not disagree with you, although I have a difficulty. I told you the difficulty I had, which is that the package, in its pluses and minuses, includes the maintenance board. If we cannot deliver the maintenance board early on in the life of Bill 51, we are not delivering the whole package.

Mr. Grenier: We probably are delivering the whole package, but we would almost be pre-empting the board if we set the standards now. The board

is going to have to set the standards after we give it the outline of the areas it should be looking at.

Mr. Reville: That is another piece of information I did not know. You contemplate the board figuring the standards?

Mr. Grenier: I think the board should set the standards, not us. We have given them an outline of the standards, as Mary just read, but the specifics of the standards are something the board should do. Bill 51 will be an evolving document. As things pop up that require changing, let us hope they can be changed. As the board moves forward and finds some things work and some things do not, it too should be able to move and change as required.

Mr. Reville: In your understanding of the process, does this mean that when the board decides what the appropriate standards are, the Lieutenant Governor in Council will proceed by regulation?

Mr. Grenier: I am not familiar with that process. I am sure there are others here who can answer that. I cannot.

Ms. Hogan: Depending on what the amendments look like to sections 14 and 15 of the bill, it is possible that some of it could be done by regulation.

Mr. Taylor: It strikes me that standards should be a matter of provincial policy. An administrative tribunal will administer the provincial policy, but surely the standards should be a matter of provincial policy. I put that to you for comment.

Ms. Hogan: I do not quite understand when you say "provincial policy."

Mr. Taylor: As you know, we now have a thrust towards the province manifesting its policies in legislation such as the Planning Act that guides administrative tribunals such as the Ontario Municipal Board in a number of matters, whether it is food land guidelines or flood control guidelines. We have pits and quarries and that type of thing where the policy is set by government and is binding on the provincial administrative tribunals that administer the acts. I put it to you this would be a departure from that policy if this is your intention.

Ms. Hogan: I do not think there is any question that it would be provincial policy. What is common in acts is that the broad thrust, the general outline is there. Then what I will call the the nitty-gritty is generally set out in regulations or, depending on what it looks like, perhaps even in guidelines. If you look at the city of Toronto housing standards bylaw, the enabling legislation is set out in the Planning Act, which is very broad. Then you get a housing bylaw that looks somewhat like this. To attempt to put that in the provincial act would be quite cumbersome and awkward. I do not disagree that the overall policy will be there.

Mr. Taylor: With respect, I am not arguing that there is not a place or a role for provincial regulation. That is necessary, but it is the legislation that authorizes the regulations. Those regulations must come within the end of that legislation.

Ms. Hogan: Otherwise, we are going to get into an ultra vires case.

Mr. Taylor: If you are talking about Toronto, there is always

caution because so many of Toronto's bylaws have been approved by special legislation. I am always wary in dealing with Toronto, because it is continually entreating Queen's Park for legislative approval for what it may want to do.

In any event, I am not arguing against regulations and I appreciate the need for them, but what concerned me in my supplementary was pertinent to your question in terms of who sets the policy, whether it will be set by the tribunal, and I surmise it would be an administrative tribunal, or by the government of Ontario.

Ms. Hogan: The overall policy you will see embodied in the act--and when it comes to the nitty-gritty, the board will have some role there--is very clearly going to be set by the province. I expect you will see that in the amendments to sections 14 and 15.

Mr. Taylor: Leading from there, if the policy is set by the province, then there have to be pretty clear parameters set out for the board, parameters that Mr. Reville has indicated the committee should see.

Mr. Grenier: The parameters are set out, the guidelines are there, the standards have been set and what is more, to tie in to the province, one of the clauses is that the board may contract with municipalities to use municipal inspectors as an alternative to provincial inspectors appointed under the Residential Rental Standards Board where appropriate, where inspection and/or enforcement is not adequate or where the municipality refuses, neglects, or declines to inspect.

Mr. Taylor: That is administrative, though.

Mr. Grenier: I realize it is administrative, but it ties in to the fact that it is a board that is utilizing some of the current standards and adding to those. As well, the standards are set forth in the standards clause. There are seven.

Mr. Taylor: I do not intend to be argumentative. It was just a matter of clarification.

Mr. Grenier: No, I understand. I think we are on the same frequency there.

Ms. Hogan: We are very concerned about that too, because the last thing we want is to find the legislation is not clear or specific enough and we get into a fight later on about the rights being ultra vires. None of us needs that, and I am sure the directors are well aware of that, so I think that problem will be resolved.

The Acting Chairman: Mr. Taylor, are you finished?

Mr. Taylor: Thank you.

The Acting Chairman: Mr. Reville, do you have some more? I have other speakers.

Mr. Reville: I know. I do.

Mr. Taylor has been helpful because he has led into my next line of questioning, which is the matter of enforcement. You will be aware that

subsection 114(7), the neighbouring one, allows for regulations "prescribing...the manner in which maintenance standards shall be enforced by a municipality," and you have already alluded to that to some extent.

To date, we have been unable to get clear what anyone's view of the magnitude of this job is. Some information has been brought forward that property standards are enforced or not enforced in different ways in different municipalities. Some municipalities have a large staff and some have none. Municipalities in Metro have 82 inspectors all told, not all of whom are solely for property standards inspection.

Have you done some work on how much people power is required to do the job and how is it going to be financed?

Ms. Hogan: It has not been totally costed out, but there is no question it is going to cost money. One of the things we have been hammering away at with the government is that it has to provide sufficient funding to make the thing work.

One of the areas we are looking at is utilizing the municipalities' inspectors, where they have them, and I am not entirely sure whether that means the province has to contract in some way with the municipality. With additional standards, in those municipalities that have inspectors but have not had enough of them to enforce the standards properly, it may mean they are going to have to have more, and certainly in those jurisdictions where they do not have inspectors, there are going to have to be inspectors, perhaps provincial inspectors. We are talking money, there is no question, and that has been part of our discussion with Mr. Curling and the bureaucrats in the Ministry of Housing. We have to have some funding for this.

10:50

Mr. Reville: I think I know what Mr. Jackson is going to do. I will relinquish the floor.

Mr. Jackson: My supplementary is on that point. Ms. Hogan, in your final statement you referred to the fact that you relied on the data from the Ministry of Housing. Is that the sole basis of consultation to which you had access on matters relevant to the standards board discussions?

Ms. Hogan: Not entirely. Obviously, we have talked to--

Mr. Jackson: You have the Rent Review Advisory Committee, the composition of which we are familiar with. Were your discussions on the maintenance standards board confined to RRAC? Did the ministry bring in additional consultants? What was the breadth of research?

Ms. Hogan: Essentially, discussions of RRAC with officials from the ministry, and also whatever research discussion individuals may have had. There is a fair amount of knowledge and expertise out there when it comes to standards, as Mr. Grenier says--the Urban Development Institute, etc. The developers, who bump up against these various standards all the time certainly have a lot of knowledge and I like to consider that some of us have a fair bit of knowledge, having bumped up against these standards and problems with enforcement and whatever for years and years.

Mr. Jackson: Did you have any specific input from the Association of Municipalities of Ontario?

Ms. Hogan: Not formally, no.

Mr. Grenier: No, not formally.

Mr. Jackson: Did you have any specific presentations from the Ministry of Municipal Affairs? If so, who were the individuals?

Mr. Grenier: Not that I am aware of, although I was not at every meeting.

Ms. Hogan: I am informed there was a maintenance board subcommittee and it met and hammered out a number of these proposals. I am being told by one of the members, since I was not sitting on that subcommittee, that yes, they did.

Mr. Jackson: Can you make known to this committee who represented that ministry and the number of meetings they attended?

Mr. Grenier: Sure. Why do we not ask--

The Acting Chairman: To interrupt for a moment, if there are other people in the room who can provide information, they should feel welcome to sit at the chairs and to speak into the microphones.

Ms. Hogan: I am being told that John Canham from the Ministry of Municipal Affairs--

The Acting Chairman: For Hansard, will you identify yourself, your name and position?

Ms. Amaya-Torres: My name is Pilar Amaya-Torres and I am an RRAC member, a tenant.

Ms. Hogan: And a member of the subcommittee.

The Acting Chairman: Can you provide us with some information?

Ms. Amaya-Torres: Yes. John Canham from the Ministry of Municipal Affairs came and gave us an overview and we have been studying the report written by Hale on successful maintenance and occupancy bylaw experience in Canada. It is quite an extensive report, and it gives some very interesting examples of things that work and things that do not work. We have used that quite extensively in making our recommendations.

We also have had on the subcommittee two additional landlords and two additional tenants who are not members of the RRAC who have been participating, and they all have experience, some quite extensive experience, with maintenance problems and with bylaws.

The Acting Chairman: Does that answer your question?

Mr. Jackson: No. I want to ratchet down this business of consultation, which is the point Mr. Reville raised.

Ms. Amaya-Torres, you studied the Canadian report on the impact of maintenance standards. Were there any examples in that report of provincial jurisdictions where a model similar to the one you are poised to recommend is in place?

Ms. Amaya-Torres: We have taken pieces from all the examples we have seen. We have not copied one particular model, but we have studied the report and pulled out parts.

Mr. Jackson: My question then is, is there a province in Canada that has a minimum standards maintenance board tied to its residential tenancies legislation?

Ms. Amaya-Torres: No, not to my knowledge.

Mr. Jackson: So you had no specific model. You were constructing one on the basis of what is currently going on--

Ms. Amaya-Torres: In other municipalities and in other areas.

Mr. Jackson: My final question then is, did the Ministry of Municipal Affairs representative, Mr. Canham, provide any comment or input with respect to its impact on municipalities? Or, more appropriately, did he speak at any point on behalf of his ministry with respect to its position in the matter?

Ms. Amaya-Torres: It was a very general overview; it did not take more than a couple of hours. He gave us a list of contact people whose opinions we should seek; we fully intended to do that during the process. We had a list of speakers from whom we wanted to hear, but we ended up being bogged down and having to come up with more detail specifically for Bill 51; so the subcommittee kept meeting to hash that out rather than gaining more input. That is one of the reasons we had suggested an interim period, so that we could obtain more information.

Mr. Jackson: So beyond Mr. Canham, you did not get the consultations that he recommended might be helpful?

Ms. Amaya-Torres: No, and we would like to.

Mr. Jackson: If I might, I want to ask the minister one question. When I first raised the motion with respect to your contacting the Association of Municipalities of Ontario, you will recall I also asked if you had talked to your counterpart, the Minister of Municipal Affairs (Mr. Grandmaître), in this regard.

If I recall Hansard correctly, you indicated he was aware of it, but you had not had a specific session devoted entirely to the fine points of sections 14 and 15. Have you had occasion to pursue that, as was recommended by the committee some months ago?

Hon. Mr. Curling: No, I have not had a formal meeting with Mr. Grandmaître in this regard.

Mr. Taylor: Is there a time frame for completion of your subcommittee's work? There is some concern that this will be a critical part of the new legislation, and it was a matter of how much you leave up in the air and leave to regulation after the act is passed. Do you have any comment on that? I appreciate you are exploring new ground. You are pioneering in this area, and I know you are trying to get the best evidence you can to be helpful. Do you have some indication of when you might have--

Ms. Amaya-Torres: That is of great concern to us too. We want to have whatever we need to have in Bill 51. We have worked out the substantive details, and we have made the report to the minister--just now.

Mr. Grenier: That went in this morning with a host of recommendations.

Ms. Amaya-Torres: We have listed what we think must be in there.

The Acting Chairman: Now to Mr. Gordon, who has been waiting quietly and patiently for a long time.

Mr. Gordon: I have a number of questions for Mr. Grenier and perhaps for Ms. Hogan.

I listened very carefully to what you had to say about the history of rental housing in Ontario, and you were alluding to that history when you suggested--more than suggested; I would say it was an emphatic statement--that we are in this position today because of rent controls. You talked about politics and rent controls, but there were other things that contributed to the fact that we do not have the kind of rental housing that is required today.

The big developers decided to come in after rent controls, and it so happened it was at a time when there were other developments for them in the economic world, such as the interest in moving to the United States to develop the commercial potential there, as well as developing the commercial, retail and office building potential that was in this province from 1975 on. That was quite clear to anyone who is involved in politics. Look at the number of malls and office buildings that went up across this country. The money went elsewhere.

11:00

It is also true that high interest rates played a key role in the deflection of the private sector from building rental units. It is also clear that inflated land prices and building supply costs deflected the private sector from building apartment units. I could go on about some of the reasons we did not have as much building as we would have liked to meet the needs of Ontario's consumers of rental units.

To make it sound as if we do not have enough rental units today simply because of rent controls, and this is what has scared the private sector away, is really oversimplifying things. It is a convoluted way of arriving at the point you made earlier. I do not buy that.

What concerns our party is that we recognize this bill has a lot of good things in it. We recognize that you have worked hard; no one would dispute that. Bearing in mind that rent controls are not the only reason there are not the rental units today, we are very concerned that we will have the extension of rent controls to the entire rental stock in Ontario. There are many of us who are not quite certain whether this means rent controls will be lifted eventually. If you study the history of legislation, no matter what they are legislating, things become more and more complex, more and more bureaucratic and it is difficult to roll things back once they have been put in place.

Your organization was part of RRAC and worked with the ministry. I think I know why. Obviously, it is because you were faced with the fact that the four per cent on everything would destroy many developers' and landlords' investment, and you could not stand back and without becoming involved. You did the right thing; you became involved with the ministry. Again I have to question, if this bill is passed, whether a few years hence we will not have editorials being written about how rent controls became further entrenched in

Ontario because the private sector, which does not really believe in rent controls, bought it to save its investment.

When we talk about politics, let us be very clear. You are playing the politics of the bottom line. We have to be conscious of all the citizens of Ontario and their future when it comes to rental units and their future when it comes to the kind of rental units they intend to live in.

There are also members of my caucus who are very concerned that increasing the guideline on the pre-1976 buildings is going to make those buildings unaffordable. Where is the affordable rental stock in this province going to go? Where are these people going to live? Who is going to provide the money for them so they can live there? These are all questions that are being asked, and we are receiving conflicting advice from people who come before us. We are hearing from some tenant groups which say: "No, we do not want any rental subsidies. We do not believe in that." If you do not believe in that and the rent is going to go up in those buildings, how are those people going to live there? What kind of a system do we have here anyway? We are getting mixed signals from everybody.

We also have to question whether you really represent all the landlords in Ontario. We know you represent many landlords, but we also know the small landlords in this province are not being represented here. I do not see them. Occasionally, we will have one wander in, very emotionally upset about things and explain why he has just about had it with being a small landlord, but we do not have an association of small landlords in the province.

Mr. Grenier: I beg to differ.

Mr. Gordon: No, we do not. We have not been hearing from them, not loud and clear.

Mr. Grenier: Well--

Mr. Gordon: I am doing the talking now. You will have a moment to do that. Mr. Chairman, is that not true? I am questioning.

The Acting Chairman: I think it is common practice for committees to extend to their guests some courtesies.

Mr. Gordon: Certainly.

The Acting Chairman: If members indulge in a bit of attacking without placing questions, naturally the guests would prefer an opportunity to respond. Perhaps you could help by placing a question.

Mr. Gordon: I am coming to my question.

The Acting Chairman: Good.

Mr. Taylor: On a point of order, Mr. Chairman: There is obviously a reaction to whether the comment about an association of small landlords was correct. It might be appropriate to clear that up now, and I think our guests intended to do that. I think Mr. Gordon is big enough to permit that.

The Acting Chairman: I appreciate your point of order. I think Mr. Gordon was about to place the appropriate question.

Mr. Gordon: I would put it to you on this basis: When a member of a committee is leading up to and preparing the ground for his questions, I do not think he should have his train of thought interrupted, nor would I interrupt the train of thought of a deputant who came to this table; I would allow him to make his statement. You should keep that in mind.

When we are talking about affordable housing, I am very concerned, as are many of my caucus members, that affordable housing will disappear, which will create another big problem for the government. I have many questions in mind, but we will have to go at it another way first.

Moving on to municipalities, Mr. Jackson brought up a very important point; that is, how much consultation has gone on with municipalities?

Ms. E. J. Smith: Mr. Chairman, following up on Mr. Taylor's point of order, I am interested in the answer to the question that was raised, and you said you assumed it was about to be put. Could it be put, so we can get an answer?

Mr. Gordon: I have a series of questions to ask, and if they could all be answered together, I would be quite happy.

The Acting Chairman: Is one of the questions in your series about the association of small landlords?

Mr. Gordon: Yes, definitely.

The Acting Chairman: All right. I will allow you to continue.

Mr. Epp: Mr. Gordon would probably like to correct the record. He said Mr. Jackson raised a good point. I do not see Mr. Jackson here. He probably meant Mr. Taylor or somebody.

Mr. Gordon: Mr. Jackson was here.

Mr. Taylor: I have never been known to raise a good point; so it could not have been me.

Mr. Epp: I was trying to give you the benefit of the doubt.

Mr. Gordon: Mr. Epp, I would like to answer the point you have raised, because I think it is a good one. Mr. Jackson was sitting here a little while ago talking about municipalities, whether or not they had been consulted and so forth. I would not want to allude to the fact that either you were sleeping or you were not here.

Mr. Epp: I have been here before you.

Mr. Gordon: That is what I mean; so I would never say anything about whether you were here or whether you were listening. Far be it from me to suggest motives or anything like that.

Mr. Epp: I was listening.

The Acting Chairman: That is a great idea, since none of you was here at 10 o'clock when the committee was to sit. Could you place your question?

Mr. Gordon: Okay. How much have the municipalities been consulted? I would like a detailed answer on that, following up what Mr. Jackson said.

With respect to the organization of small landlords, how many members are in that organization? For example, how many of the landlords in Sudbury belong to an organization of small landlords that is province-wide? How about Thunder Bay, North Bay, Sault Ste. Marie, Chatham, Sarnia, Kingston, Belleville--I could go on and on--and the small communities across the province that have many small units? As you well know, in Ontario, most of the buildings with tenants in them have fewer than six units. Is there a formal type of membership? Is there a fee? Is there a newsletter that goes to everybody? I would like to know those things.

I want to ask Mr. Grenier, given the prelude I have just given leading up to his remarks about rent controls, whether he really believes that extending rent controls to all buildings will ultimately end controls.

Mr. Grenier: The answer is yes.

11:10

Mr. Gordon: That is very important. I want you to expand on why.

Ms. Hogan, do you really believe that making pre-1976 buildings less affordable is going to help tenants? Mr. Grenier, do you really believe the private sector is interested in building rental units in the next year or two, given the fact that it is obvious that the private sector is deep into the building of condos and single-family or detached homes? Will they want to build a lot of high-rises that will be lived in by people who have two incomes and can move into a condo or a single-family unit at a whim? How many of those units do you think will be built? Is this bill going to do anything for supply and affordability in this province?

That is enough questions. I do not want to give any more than that.

The Acting Chairman: I was about to stop you. We are up to about 12 questions now. Perhaps we could give the deputants an opportunity to respond.

Mr. Gordon: I will not interrupt.

Mr. Taylor: I will. Mr. Gordon's questions are always very thoughtful and relevant, but he has asked so many in a row that I cannot remember what the first one was. When you are responding, will you let the committee know what the question is so we can relate the response to the question?

The Acting Chairman: That would be very helpful.

Mr. Grenier: To begin with, I would like to respond to your preamble, Mr. Gordon, about rent controls per se, the big developers having gone into retail and high interest rates, land prices and building costs being factors. You asked whether it is oversimplifying things to say that rent controls were the root cause.

All those factors were part and parcel of what the big developers did and what some of the small developers did. There is no question that money flows in the easiest direction, which is usually downhill and towards those areas where the best returns are. When rent controls were imposed, they were

the common element that all developers looked to and said, "Let us go elsewhere." You are quite right that to say they are the only cause would be an oversimplification, but they were certainly a major factor. Controls were not the only reason, but they were the major reason.

It would be churlish of you, however, to suggest that we are looking only to the bottom line, that the only reason we are participating in this is to protect our bottom line. In fact, a lot of us are protecting not only our businesses but also one of the vital industries in Ontario. The largest single industry in Ontario is the building business, and there are hundreds of thousands of jobs at stake in this industry. Protecting the bottom line, as in any capital system, is the only way to protect those jobs. If you kill the goose, as sure as hell you will do away with the eggs, I can tell you. I do not think you can say that is the only reason.

Increasing the guidelines on post-1976 buildings is not necessarily going to take away from the stock of affordable housing, because they are not much affected in any event. The guideline that is being put into place is virtually what is there now. It will not change them that much.

We have already touched on chronically depressed rents. That is an area that needs some work. We have not been able to resolve it all, but it is one of the areas we have looked into. We will have further comment on that as well.

You asked whether the small landlords are being represented. Sitting right beside me is Jan Schwartz, who is a member of the Multiple Dwelling Standards Association, which represents the majority of small landlords within Metropolitan Toronto and, indeed, throughout the province. Jan is a member of the Rent Review Advisory Committee and also sits on the board of the Fair Rental Policy Organization of Ontario. From the point of view of how many landlords are represented and whether they are represented in Kingston and all the other places you named, I think you have seen adequate demonstration that those landlords have been represented, because virtually everyone who came here said he was a member of FRPOO and had been represented.

As far as newsletters and whether they are charged fees are concerned, absolutely; they are charged fees and they get newsletters. We are province-wide; so we are very representative of both large and small landlords. In fact, the majority of our members are small landlords.

You asked another question of Mary about pre-1976, and I will let her respond.

Will we build more units? You are damn right we will build more units, but first we have to see conditions that make the building of more units viable. We have to know there is a mechanism in place that puts some stability into the system. As we have said so many times before, Bill 51 is not the only answer, but it is a darn good first step. It is a step that gives the development industry an indication that the government is acting by more than fiat, that the government is acting in response to inflationary pressures on building and is reacting in response to the requirement for a rate of return.

Knowing that philosophy is there will give confidence to the industry. It is not a simple question of saying, "Pass Bill 51 and 10,000 units will be built." It is a question of, "Pass Bill 51 and let us watch the mechanism in motion and see how it works." The system will then start to work as they see rates of return going to the bottom line, to use your own phrase.

As far as supply and affordability are concerned, there is no question that one of the major difficulties is the affordability problem. This bill will not cure the affordability problem all by itself. It cannot. It is not designed to do that. The affordability problem is one we are concerned with. There is no question that there are people who will not be able to afford the units they will be in when the rent is raised, as they cannot afford the units they are in now. People who are living on social assistance will have to have it increased. They will have to have some other supplement. There is no doubt about that. However, it will not take away from the affordable stock. We think, quite to the contrary, it will increase the affordable stock because it will increase the total supply.

Last but not least, listening to your preamble, I was unable to discern any particular philosophy you had that we could grab on to. I think we understand what your party is saying and we agree with it. There are deficiencies in some areas, particularly in the low-end affordable area. We welcome the idea that there should be some form of supplement. I think Mr. Grossman has made that adequately clear in several speeches he has made, and you have touched on the same thing yourself in several areas. That is an area that has to be addressed. Our concern is that we have to start somewhere. We have to start with Bill 51. Imperfect as it is, that is the place to start.

Mary, the question to you was pre-1976 less affordable.

Ms. Hogan: Obviously, making pre-1976 buildings less affordable is not going to help tenants, but I do not think that is the issue. It makes me angry when I hear people zeroing in on the guideline and saying, "The guideline is going from four per cent to 5.2 per cent or 5.4 per cent," or whatever. It does not matter. You cannot look at that in isolation. There are a lot of other things that are going wrong with pre-1976 buildings. There are illegal rents and poor maintenance. Nobody wants to live in a low rental building with the ceiling caving in, sewage from the toilet upstairs coming down and all sorts of other things. That does not help anybody.

There is the ability to go to rent review and get costs, despite a four per cent guideline, and get a 10 per cent, 20 per cent or 30 per cent increase. There is the ability of owners to convert often older, low-rise, appropriate family housing into other things, which I hope Bill 11 will do something about. When you look at all these things taken together, you have to say: "We have a four per cent guideline, but do we really? What is it doing for all those people out there?"

As I said earlier, there is a housing crisis right now. In particular, there is a housing crisis at the low end. We have real affordability problems. The four per cent guideline has not done anything for those people. Obviously, we have to go beyond that. I am hoping this is what we are doing here. Bill 51 is having an impact with regard to some of those things: the illegal rents, the ability to stack operating costs, maintenance, all of those very critical things. You have to look elsewhere. Bill 11 is something that tenants fought very hard for, particularly because of its impact on the low end and affordability.

11:20

I agree with Mr. Grenier. We cannot solve all affordability problems just through the Ministry of Housing. At the moment, George Thomson is heading a committee that is looking at social assistance in the province. I hope this

is something that he and his committee will be taking a very hard look at. For years we have been saying that the amount of money available on social assistance for a housing allowance is not adequate; it is not anywhere near adequate. We are going to have to have an approach that brings in various elements: the Ministry of Housing, the Ministry of Community and Social Services and maybe some other ministry, whatever. We have to look at it as an integrated approach.

There is also, as Mr. Grenier said, supply. As I said earlier and as I said in August as well, one of the key factors for us as tenant representatives was doing something about supply. We have been pushing and pushing. Believe me, Mr. Curling will attest to that. We have not let up. Where are those units? Just as I said two days ago, we got an additional 3,000 units. If you look at where they are targeted, they are targeted to some of those very people you are concerned about.

There have been quite a number of initiatives. As I said, it makes me angry to hear people say, "Four, five, whatever, is going to exacerbate the crisis." That is much too simplistic. We have to look at the broad base. We are beginning to have an impact.

The Acting-Chairman: I think Mr. Schwartz wanted to add something to Mr. Gordon's question.

Mr. Schwartz: I welcome the opportunity to make a few remarks in response to what you said, Mr. Gordon. In fact, being here from the first day, being present almost every day, I was eagerly looking forward to hearing from the Housing critic of the official opposition party. Unfortunately, you did not grace us with your presence during the first three weeks, and we missed you.

Had you been here during the first three weeks, perhaps you would have heard from a number of small landlords. One third of all the deputants of the small landlords were members of the Multiple Dwelling Standards Association, which has been around for 16 years. We do have members in our organization from just about every city and town in Ontario. There are also a number of local organizations all over the province. As for the small landlord not being represented, perhaps he was not sufficiently represented at RRAC meetings. There I may agree with you, because proportionately the numbers were certainly not favouring the small landlord, but that is a different matter.

As far as supply is concerned, supply comes not exclusively from adding new units but also from preserving the existing units. It is because of rent control that we have lost thousands of units in older buildings. If you familiarize yourself with the Barnard report, which you can obtain through the Ministry of Housing--perhaps you are familiar with it--you will see that thousands of units have been lost, and rent controls seem to have played a very important part, being the main reason so many owners try to get out of the rental business.

With respect to Bill 51, as has been said before, this is just a first step. This is no solution, no automatic formula that will create new units overnight, but it is a first step that will lead us in that direction.

Mr. Gordon: I think I have an opportunity to comment because I think he was referring to me personally. I was not here for the first three weeks because I was suffering--

Mr. Schwartz: I am sure you had good reason.

Mr. Gordon: I am glad you put it on the record, so I think I will too.

Mr. Schwartz: Yes. I did not mean to imply--

Mr. Gordon: I was suffering from an illness which I am just now managing to shake. While you might represent people in the Metro Toronto area, and I am sure you do, I am not satisfied that the small landlords in Ontario completely understand this bill and its implications for them. Since you have that kind of clout, I urge you to make sure they all understand it and that they are aware of what is in it. They are the people who are going to bear quite a bit of the brunt of this bill.

I can understand Ms. Hogan getting a little incensed, but it is important that I really want to know what you are thinking and how you arrived at these points. As I said, coming from a working-class city, not a middle-class city, I happen to know that when those people go to pay their rent and it goes up, they really feel the bite. I have to be able to justify in my own mind, and in those of my caucus mates, that these people will see all those other things you are talking about as being real and important. I am glad you told me that. I am glad you expressed yourself as you did. You made a good case.

Ms. Hogan: I should point out that almost since 1972 I have been working in Parkdale, which is a low-income area of Toronto. It is not at all a middle-class area. Believe me, I have experienced more than I ever want to experience of all the problems of low-income tenants of affordability and supply and so on. That has always been the constituency I have been particularly concerned with.

The Acting Chairman: Mr. Reville has a short supplementary. Then it will be Ms. Smith and Ms. Caplan. Members should be aware of the time.

Mr. Reville: I will be very quick, Mr. Chairman, but I did want to address this.

Mr. Schwartz, I heard a lot of submissions from members of the Multiple Dwelling Standards Association. It seemed to me that what they were telling us was that money was not the real problem. It was the Landlord and Tenant Act that really ground them. A number of the deputants expressed it very dramatically, that they wanted to be able to get rid of a tenant who was rude to them, was abusive or whatever. The impression I got from them was that six per cent or five per cent was not the problem; sometimes they did not increase the rent at all. They felt the Landlord and Tenant Act weighed heavily on their shoulders and they did not like it. Will you comment on that?

Mr. Schwartz: In response to what you have just said, every landlord who comes and tells his story, tells it from his own point of view. There are problems and everyone has a priority list. It is quite possible that for some landlords the problems created by the Landlord and Tenant Act are more important than anything else. If a tenant does not pay you or wrecks your place and you cannot get rid of him, you have to go through the courts. It sometimes may take three or four months or more and it costs money. Obviously, that is the number one problem for a particular landlord in a particular case.

I would not agree that the problems in the Landlord and Tenant Act are more important than the rent review problems. They are equally important and to some landlords one may be more important than the other.

Mr. Reville: Another quick one on the deconversion aspect. A lot of the units that are lost in my area of Riverdale are because people occupy all of their house. It is a right of passage. First, you have tenants upstairs, then after a while you get a bit more money and so you occupy your whole house. A lot of the loss in Metro is not related to demolitions or major conversions, it is related to either a resale where a middle-class couple, such as my wife and I, come in and buy a house that used to have six people in it, and now there are three. Or it is because somebody had some people in the basement or on the second floor, and he got enough money to be able to use his whole house. It seems to me we cannot address that problem very well as a society.

Mr. Grenier: Yes, we can.

Mr. Reville: Do you have any comment on that?

11:30

Mr. Grenier: Yes, Mr. Reville. The only reason you are noticing that is the lack of supply. Otherwise, you would not notice it. That has been a factor since the 1900s.

Mr. Reville: Since time immemorial.

Mr. Grenier: Since time immemorial. Ever since we have built those kind of houses they have been converting. They have been changing use. As time evolves, buildings go into completely different uses. The only reason you notice it now is that the situation has become so tight. If there were lots of supply, I do not believe that would be as noticeable a factor.

Ms.-E. J. Smith: Just two points, one coming up more recently. Unlike Mr. Reville, who seems to feel most of these are small landlords--and I speak of only the small landlords in this--we are more concerned, you might say, with the behaviour of tenants. It seems to me the recurring theme I heard from the small landlords was the pre-1975 people were getting such a good deal that they did not want to move out even when they could well afford to. We heard constantly about doctors and professional people occupying and being subsidized by landlords, who felt they were much poorer than their tenants. To me that seemed to be the recurring theme. I do not know if you have any comment on that.

Mr. Schwartz: That is absolutely true. It has been said again and again before this committee. A number of tenants living in pre-1976 buildings are paying such ridiculously low rents that the only people who suffer are those tenants with true affordability problems. When one talks about affordability of old, pre-1976 buildings, to imply that all pre-1976 buildings should not be increased by more than four per cent is counterproductive. Instead of helping the people who need help and concentrating help on those who need help, by spreading it over all pre-1976 buildings and arguing that there will be an affordability problem for all those tenants living in old, pre-1976 buildings, this bill is counterproductive.

We have heard before this committee doctors, lawyers and people with an income of \$100,000 and plus, who pay something like \$300 or \$350 rent.

Ms. E. J. Smith: It is part of the problem.

Mr. Schwartz: It does not help if, in the name of the poor, everyone who lives in a pre-1976 building pays the lowest possible rent and the lowest possible increase.

Ms. E. J. Smith: I have another question to ask the co-chairmen. I believe we all have to be very grateful and very impressed by the work you have done in reaching as much consensus as you have. You said there was one problem left unresolved, namely, the makeup of the board. Because it is left unresolved, in most adjudication committees of that type set up by government, there tends to be the situation where you say, "We will have one of this and one of this," or, "two of this and two of this," and then a balance agreed to by both. Was this considered and rejected? If so, why?

Mr. Grenier: It was considered and rejected because of the underlying philosophy from the landlords' point of view. It sounds so utterly democratic and so utterly fair to say, "Let us have 50 per cent representation from both sides. I do not disagree at all that this sounds fair. Unfortunately, the representation from both sides does not have the same degree of risk. The landlords have virtually all of the risk, and I do not want to get into the esoterics about tenants in their homes, etc.

I refer to the guy who has to go down to the bank and make his case on a maintenance item. Pick anything you want. Let us take an easy one. The air-conditioning is not working and it is 98 degrees. The air-conditioning should work but it does not work. A landlord needs \$100,000 to fix the chiller. It would be so simple for a 50 per cent board to say, "Go fix it," but the guy who has to go to the bank and get the money is the landlord. When he goes down to the bank and says, "The maintenance board says I have to fix the chiller and I need \$100,000," the bank is not impressed. They are not impressed by the maintenance board at all. They simply ask, "How are you going to pay the money back?"

The difficulty is, if we have that democratic system, we may have things that require fixing, such as a hole in the roof or a broken toilet, and there is no question they have to be fixed, as well as items that may not need or are able to draw an immediate amount of money. Our concern is you can put landlords in an untenable position where they cannot comply with the board. As a result of not being able to comply, they may be penalized because they cannot get the rent increase and they have no recourse.

Ms. E. J. Smith: I was not in any way suggesting--personally, I do not believe in a 50:50 balance, because that is no balance at all. If you come to loggerheads, you just have nothing. It is hard enough to run a minority government, let alone a 50:50 government.

The Acting Chairman: Not at all. It is a piece of cake.

Ms. E. J. Smith: No, 50:50 is almost the same as nothing. When I said that on an arbitration board you should have one, one and a balance, it seems to me the only solution is to have some understanding of what could and would be achieved, which would include the very things you have set out.

Obviously, the landlord has the right to invest only what is necessary if he so chooses, or the right to keep his standards up if he so chooses. A balancing factor that both people agree on would be your vote-breaker. The balancing factor might be a banker who would understand very well. I do not

know. You would have to set out what the objectives are and the responsibility of the tie-breaker would be to understand the objectives, including the rights of the landlords and the tenants.

Mr. Grenier: That is the dichotomy we have arrived at. We have not been able to solve that thorny issue. What we have said is that the Minister of Housing will have to solve that thorny issue.

Ms. E.-J. Smith: That is why I am interested in your reaction. When you say Mr. Curling, you are saying the politicians. That is why I would be interested in Ms. Hogan's answer too. If it came to me, that is the kind of thing I would look at, so I am interested in your response.

Ms. Hogan: Mr. Grenier said he knew all about the fact that it was the tenant's home, but I am going to repeat that. We could probably make the arguments for each other (inaudible) on this issue.

You cannot minimize the fact that when it comes to maintenance of apartment rental units, the tenants are the ones who have to live with it. Mr. Grenier talks about the risk, and I do not attempt to minimize that at all. Obviously it is there. It is the landlord's investment and that is very important. At the same time, it is the tenant's home and we cannot undervalue that at all. The tenants are the people who have to live in those conditions and they are the ones who know what is really going on in the building. To a certain degree, the landlords see bogymen where there are none.

What we are talking about here are minimum standards. As I keep telling Mr. Grenier, he has been living with the city of Toronto bylaw, which is a fairly tough bylaw, for a certain time. He tells me his buildings are four times better than the standards--

Mr. Grenier: Five times.

Ms. Hogan: --five times better than the standards of the city of Toronto. He has no problems with that. We have to be very realistic about what we are looking at here. We are not looking at the ability of a board to come along and say: "There is a fingerprint on the wall. Do something about it." We are looking at something much more basic than that.

Mr. Grenier raises the concern about being able to comply with orders of the board. I suggest, with respect, that is a very different issue. Representation does not necessarily have an impact on that. If there are compliance problems, because of lack of money or whatever, then we have to take a look at that, but we take a look at that as a different problem, not as some result of the bogymen of equal representation. I do not think one follows from the other.

I tend to agree with you and I want to clarify the tenant position around representation. Obviously, we share the concern that it is going to get us nowhere if we have one landlord and one tenant deadlocked. Probably we will see that this will not happen. That is why we had put forward 40:40:20, with the 20 per cent being perhaps municipal reps, government reps, whatever--those with less self-interest; I will put it that way. When we are looking at how the thing might work, there might be a chair comprised of one of that particular group. All we are saying is equal representation within the context of the whole, rather than 50:50. There is a very large difference.

The Acting Chairman: You have turned this over to the minister as a problem. Is that the idea?

Mr. Grenier: We have made a recommendation to the minister.

The Acting Chairman: You were unable to reach an accord.

Ms. Hogan: We made two recommendations to the minister.

Ms. Caplan: I have a couple of questions. One is really directed to the ministry staff. I realize you tabled your report just this morning and it is advice to the minister. In my preamble, I would like to congratulate you for having achieved consensus on virtually everything except the makeup of the board itself.

It is appropriate for the minister to have an opportunity to respond, since Mr. Jackson and Mr. Gordon have raised the issue of the process and the consultation, particularly with the Ministry of Housing and the Ministry of Municipal Affairs. I would like some understanding of what that process was from the ministry staff perspective. I understand that much of this happens at a staff level and ultimately after a report is filed it is up to the ministers to deal with it. What resources were made available to the committee and what was the process? Perhaps the staff could explain it.

Mr. Peters: There are probably three issues I would like to touch on in attempting to answer the question by Ms. Caplan. The first is that some time ago, Mr. Church and I met with the Minister of Municipal Affairs (Mr. Grandmaître). We were invited to attend the meeting where he was meeting with the executive of the Association of Municipalities of Ontario.

At that time, we talked generally about the concept of the maintenance standards board or the Residential Rental Standards Board. At that point, the matter was still under discussion by the members of the Rent Review Advisory Committee. Throughout that process, the committee members and in particular the maintenance subcommittee members had access to Ministry of Housing staff, particularly from the buildings branch, to outline generally the principles behind such things as occupancy bylaws, property standards bylaws and so on.

In my judgement at least, that led the committee to understand the principles behind such legislation and its intent. At the same time we were waiting for a product to be developed. I think now it is obvious that product has been developed and communicated to the minister. The next step in the process is to expand that consultation, again with AMO. As members of the committee will recall, there was a presentation in Kingston by the president of the Ontario Association of Property Standards Officers that provided its perspective on such a concept.

At this point, as members of the RRAC committee will appreciate, everyone wants a system that is functional, that is able to be administered, and that produces the result everyone has agreed should appertain. Now we are back into a process. Now that we have the principles, how does one make this work? That will result in further consultations with other interested groups and we will be undertaking those as soon as possible.

Ms. Caplan: As I understand it, you were waiting to see the product of this subcommittee before you went for broader consultation because you had nothing to consult with in the process before the information that has been made available. I will ask the minister what he sees as the process for his

discussions with the Minister of Municipal Affairs and how this fits in to the consultation. Will it be his role to consult with AMO or will it be joint?

Hon. Mr. Curling: I am glad you raised the point because I had asked to go on record to bring up this issue. I do not want the committee to go away feeling that nothing has been done or was done before. I am glad Mr. Peters has brought the committee up to date about those meetings. I have a meeting scheduled for October 23 with the Association of Municipalities of Ontario to speak about its concerns and how it sees it. I am prepared to come back to the committee after that to say exactly what its feeling is.

I have spoken one to one to a considerable number of mayors on this. I told them this is coming up and asked their personal feelings about it. They are quite receptive to it. We should talk about our concern on a provincial level and a regional or municipal level. I did not ask them back to give me a defined solution on how they feel this should go, but I said these are the things that will be raised. I think there will be a very interesting discussion on October 23.

Ms. Caplan: Is it your intention to report back to this committee the results of your deliberation on the report that has been tabled to you today?

Hon. Mr. Curling: Certainly. I have not had the opportunity even to see it yet; I just heard about it.

Mr. Taylor: On a point of clarification, Mr. Chairman.

The Acting Chairman: We have Mr. Bernier. Was it on this point?

Mr. Bernier: I will hold.

The Acting Chairman: Okay. Mr. Taylor, is it on this one?

Mr. Taylor: It is on the standards and the process you are dealing with in terms of consultation with the municipalities, as I understand your remarks. In the rural part of Ontario that I represent, we could not live with a minimum standards bylaw of the Etobicoke magnitude, for example. There are municipalities that have never participated in the neighbourhood improvement program because a precedent condition is a minimum standards bylaw. You will get very few homes that could comply with that bylaw. That is a fact of life in some parts of Ontario when you get outside a big city. Nevertheless, we are all proud of our homes. I caution that in developing a province-wide standard, you may have one that is going to render most of the homes in parts of rural Ontario unable to meet the standard.

Hon. Mr. Curling: Exactly those points will be raised and discussed. Nevertheless, there are tenants who need minimum maintenance standards regardless of where they live.

Mr. Taylor: I do not quarrel with that. I think a basic standard of housing that everyone is entitled to if he is going to live with any sense of dignity and self-respect is fundamental to this legislation. Most people have a concern about their living accommodation. They are proud of their homes, whether they are rented or owned. They deserve a certain standard and they do not deserve some of the slum-type conditions that have been presented to this committee.

I am not arguing with the standards; I am saying that in a province as large as Ontario and with so much regional difference, we now have standards that have to be accommodated in the regional differences.

Ms. Caplan: It seems to me that my colleague Mr. Taylor has made an excellent point. Also, given some understanding of why it would have been impossible to have the kind of broader consultation that will be required until there was a proposal brought forward by this committee, perhaps this is the reason the minister has suggested an interim period to allow those municipalities to see what is being proposed and respond to it.

Mr. Grenier: We have taken the regional differences into account in the standards.

Ms. Caplan: When the minister responds that now there will be the opportunity for the consultation and for municipalities such as the one Mr. Taylor represents to respond to the proposal and explain what their difficulties pro or con or their support for might be, that now is the time for that consultation to begin, is the interim that has been suggested six months?

Interjection: Yes.

Ms. Caplan: My question for the minister is the timing. This bill is going into clause-by-clause. Do you expect to have a response to this committee during the clause-by-clause review in the House, or do you think it will take some time?

Hon. Mr. Curling: I hope to have the response as quickly as possible. That was one of my purposes when I was going around the province to speak to the mayors and saying this is coming up. It almost prepared them to think in that vein. They were extremely receptive, saying that the consultation of this government will help them enough to bring back responses very quickly.

A date? I could not say. I have not looked at this report. I hope to come back as quickly as possible. No one needs this bill to be passed as quickly as I would like it to be passed.

Ms. Caplan: Thank you.

11:50

Hon. Mr. Curling: May I clarify something?

The Acting Chairman: Yes.

Hon. Mr. Curling: Just so the committee does not go away feeling that tenants are Toronto tenants, I want to ask Pilar Amaya-Torres to clarify this: You are a member of the Rent Review Advisory Committee.

Ms. Amaya-Torres: I live in Thunder Bay. I used to live in Marathon. I am familiar with the community of Heron Bay North, which is a very small unorganized community.

Hon. Mr. Curling: You bring the perspective of that community to the RRAC.

Ms. Amaya-Torres: Yes, I do. I bore everyone by repeatedly bringing up the needs of more isolated communities. When we consider standards, we have to realize that some communities will have septic sewage systems and some may even have outhouses, and we have to include that. We are well aware.

Ms. Caplan: I am going to ask a question I would like both co-chairmen to answer. I have heard your presentation before, Mr. Grenier, in the discussion of fair treatment. You have acknowledged that there are unscrupulous landlords in your industry and that you do not like them any more than we do. In fact, I believe the government knows who they are because of the rent review process of the past. Do you believe, both of you, that this bill will hit hard at unscrupulous landlords?

Mr. Grenier: Beyond a shadow of a doubt.

Ms. Caplan: Mary?

And that the provisions for tenant protection will be part of the fact that it will hit so hard at those landlords?

Mr. Grenier: I think so. Just to elaborate, and without making too fine a point of it, we have had the opportunity to examine a lot of those kinds of problems. It was interesting to have heard Mr. Gordon earlier. One of the points that both of us left out of our discussion was that we have rent control partly because of some of those landlords who have been less than fair in the past and who have not been cognizant of some of the difficulties of tenants or of their role and responsibility in the industry. Part of the mechanism that is embodied in Bill 51 will take care of that problem.

Ms. Hogan: Actually, that has been a result of the confrontation between landlords and tenants. The landlords have been able to convince some of us that they are not all unscrupulous and that when we look at sanctions, compliance and whatever, we have to zero in on the sorts of techniques that will get at the unscrupulous ones rather than at those who are doing their jobs.

Ms. Caplan: Your belief is that this bill will help to do that. You believe this bill will help to get at those unscrupulous landlords, who in the past have been able to get rent increases even though they did not provide any tenant protection, provide maintenance to their tenants or a decent place to live.

Mr. Bernier: I would like to direct a couple of questions to Mr. Grenier with respect to his organization. During the course of the hearings we went to many communities across this province. Many of your landlords came before the committee and expressed real concern about Bill 51. They expressed concern about the complexity of the bill. Many of them said they could not understand the bill. They went through chapter and verse saying what a terrible bill it was and that they could not live with it. They would say all kinds of things. For many of them, 90 per cent of their presentation was condemning the bill. Then the last line was, "We support Bill 51."

It kept throwing me off. I did not know what to believe, what was going on. I just wonder whether there was some direction from your organization that they had to put that bottom line in. What was the deal?

Mr. Grenier: Sure. As a matter of fact, we have been very open about this from the beginning. It will come as no surprise to any member sitting

here that if the end of rent controls were offered tomorrow, that would be our druthers. I do not want to get into all the reasoning behind that. Just take it as a given that landlords do not like rent control. We would like to get rid of it. Every landlord in the province recognizes that is not about to happen tomorrow.

Every landlord will tell you there are difficulties with Bill 51. I will tell you the same thing. There are difficulties with Bill 51. I do not particularly like all the things in there, but I have to be pragmatic; I have to be practical; I have to live in the real world. To get something, I have to give something. It has to be a fair tradeoff.

All the landlords who have phoned us--and the complaint about the complexity is well taken. My God, I tell you, not only do you have to be a Philadelphia lawyer to understand this thing. We are the guys who put it together and we have difficulty with all the parts of it; that is why we have such a big support staff. It is a very complex bill. But if it were simplistic, we would be back to four per cent and six points, which is part of the difficulty.

There is a real understanding as to why those landlords would come in and say, "These are the problems," because those are the problems they see. They have not had the opportunity to sit down with the tenants' side, as we have in RRAC and hearing all the tenants' problems. They are only looking at the bill from their perspective.

Jan was quite right earlier when he said, "The priority that emerges is your own priority." If your kid has bad teeth, your priority is getting him a set of braces, not fixing your car. Your priority becomes the immediate. Their priority is, "My God, look at the problems with Bill 51." They do not understand the full complexities and the tenants' side; we do.

When they phone and when we go out to the meetings and we are giving the message to the other landlords, we are saying: "Guys, it is not what you want, but it is a lot better than what you have. It is a step in the right direction for an understanding of the problem. Although you do not like it a whole lot, support it." That is why you have been hearing, "The bottom line is that we support Bill 51."

Mr. Bernier: Picking up on that point--

Mr. Taylor: Leo, I want a clarification on that, because it was Mr. Schwartz's group that had the hard cases. There were a lot of hard cases we heard from landlords. Could you put on the record for the committee again your official position as an association on Bill 51?

Mr. Schwartz: In the presentation that was made before this committee on September 5, the Multiple Dwellings Standards Association took the position that there are certain imbalances in this bill which affect the pre-1976 owners of pre-1976 buildings. Since RRAC could not agree on how to treat these buildings, here is one opportunity for this committee to come up with the proper solution. We have not agreed within RRAC on the final treatment of chronically depressed rents.

When this committee comes up with its own amendments, we will be looking forward to them. We are sure that in your wisdom you will come up with the right solution. A lot of these small landlords who have been caught with rents below market levels are in a very difficult position.

Mr. Taylor: I appreciate that--

Mr. Grenier: And do you support Bill 51? That is the question.

Mr. Schwartz: We did say--

The Acting Chairman: Excuse me. I am sorry to interrupt. It is 12 o'clock.

Mr. Bernier: I have one more question.

The Acting Chairman: If we have a lot of important questions, we can ask these folks to return at two o'clock. If you think, however, that you can wrap things up within a couple of minutes, we will go over.

Mr. Bernier: I have one question I want to follow up with Mr. Grenier.

The Acting Chairman: Mr. Cordiano is on the list. Do other members have questions?

Mr. Bernier: I have not finished.

Mr. Cordiano: I will stand down my questions.

The Acting Chairman: I want to see if we need to ask these folks back.

Mr. Gordon: We need to have these folks back for half an hour or an hour.

The Acting Chairman: Ms. Hogan will be unable to be here at two o'clock.

Ms. Hogan: I have to teach a class.

Mr. Taylor: Could we not stay five or 10 minutes?

The Acting Chairman: Is the committee agreed to invite whomever of the four will be able to attend at two o'clock?

Mr. Bernier: Yes.

Mr. Taylor: Since Ms. Hogan will not be back, I have one point of clarification. You said the four per cent, 5.2 per cent or whatever is not the important issue. I interpreted what you said to mean that if you look at the accommodation in terms of value, there will be more value as a result of this legislation. Therefore, the increase in rent will not be an increase as such, because you will be getting more for your money. Am I misinterpreting your statement?

Ms. Hogan: That is part of it, but I was also trying to make the point that you cannot say it is only four per cent and leave it at that. There are all sorts of other factors. Often, it is a lot more than four per cent, because they go to rent review, or there are illegal rents taken, there are maintenance problems or whatever.

Perhaps while I am speaking, does the committee have any idea how long

it would want us at two o'clock? I have a class to teach, and I may be able to come for 15 or 20 minutes.

Mr. Taylor: That would be helpful.

Mr. Bernier: I have a couple of questions I will follow up at two o'clock.

The Acting Chairman: We will reconvene at two o'clock and we will attempt to be brief with our guests. Members will have had an opportunity over the lunch hour to take a look at the material they were given this morning, and Mr. Richmond will lead us through a summary of it.

The committee recessed at 12:01 p.m.

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Government
Publications

STANDING COMMITTEE ON RESOURCES DEVELOPMENT

RESIDENTIAL RENT REGULATION ACT

WEDNESDAY, OCTOBER 8, 1986

Afternoon Sitting



STANDING COMMITTEE ON RESOURCES DEVELOPMENT

CHAIRMAN: Laughren, F. (Nickel Belt NDP)

VICE-CHAIRMAN: Ramsay, D. (Timiskaming NDP)

Bernier, L. (Kenora PC)

Cordiano, J. (Downsview L)

Epp, H. A. (Waterloo North L)

Knight, D. S. (Halton-Burlington L)

Pierce, F. J. (Rainy River PC)

Reville, D. (Riverdale NDP)

Smith, E. J. (London South L)

Stevenson, K. R. (Durham-York PC)

Taylor, J. A. (Prince Edward-Lennox PC)

Substitutions:

Caplan, E. (Oriole L) for Mr. Knight

Gordon, J. K. (Sudbury PC) for Mr. Pierce

Jackson, C. (Burlington South PC) for Mr. Stevenson

Warner, D. W. (Scarborough-Ellesmere NDP) for Mr. Laughren

Clerk: Decker, T.

Staff:

Richmond, J. M., Research Officer, Legislative Research Service

Witnesses:

From the Ministry of Housing:

Church, G., Assistant Deputy Minister, Corporate Resources and
Building Industry Development

Peters, F. H., Executive Director, Rent Review Division

From the Rent Review Advisory Committee:

Grenier, W., Co-Chairperson

Schwartz, J., Member; President, Multiple Dwelling Standards Association

Elms, R., Member

Errata:

The following corrections are made to Issue R-53:

Page 52, last paragraph, the third line should read: "...stating when a court may order taxes to be halved. There may shortly be other...."

Page 54, second paragraph, the second line should read: "'...day of July 1975, to the day,' etc. If new ownership has occurred since rent...."

LEGISLATIVE ASSEMBLY OF ONTARIO
STANDING COMMITTEE ON RESOURCES DEVELOPMENT

Wednesday, October 8, 1986

The committee resumed at 2:12 p.m. in room 228.

RESIDENTIAL RENT REGULATION ACT
(continued)

Consideration of Bill 51, An Act to provide for the Regulation of Rents charged for Rental Units in Residential Complexes.

The Acting Chairman (Mr. R. F. Johnston): The chair, having uncanny visual acuity, sees a quorum. As this is a brief personal appearance I am making, I thought we should make the most of it and get started as quickly as possible.

Mr. Bernier: Pleased to have you here.

The Acting Chairman: I have a list with Mr. Bernier, Mr. Gordon and Mr. Cordiano on it, but Mrs. Caplan would like to raise a matter.

Ms. Caplan: I do not mind waiting my turn.

Mr. Gordon: Can we pass the motion that there be no smoking? We have health--

Ms. Caplan: I will not smoke.

The Acting Chairman: It is understood that there is no smoking in the room while this chairman is in the chair. Excellent. Thank you.

Ms. Caplan: I have already said I would not.

The Acting Chairman: Mr. Bernier, you have a question?

Mr. Bernier: Yes, I have. Picking up from where we left off before we went for lunch, I want to direct my questions to Mr. Grenier who is the leader of the landlords in Ontario.

During our public meetings in the various communities, we heard from a large number of landlords who refer to themselves as strong believers in the free enterprise system. They are entrepreneurs and they took great pains to tell us that. They also took great pains to tell us they believed very strongly in the marketplace. In some instances, they said this bill would be an interim one for 18 months. That time figure came up on a number of occasions. I do not know where it comes from or how it surfaced, but it is there. They said: "We will live with it. Something will happen after 18 months."

I have two questions. First, in your discussions within your organization, was there any feeling that by supporting this bill you are out of sync with the rest of society? The rest of society in this country now is going to privatization and to deregulation; we are moving in that direction. Here is a group of entrepreneurs, free enterprisers, believers in the

marketplace who are going in the other direction. Do you think you are out of sync with society?

Second, was there any discussion with respect to a phasing out of this bill and the phasing out of rent controls? It seems to me the comment we heard periodically about 18 months led me to believe there may have been. I am not sure, because now I hear the opposite, that this will be cast in stone and we will have rent controls for ever and a day. Can you respond to those two questions or attitudes?

Mr. Grenier: Sure. Are we out of sync with the rest of society? No, I do not think so at all. Privatization is rampant in a lot of places, and that is certainly a good thing to have happen.

Mr. Bernier: I agree.

Mr. Grenier: The free enterprisers, such as the landlords' group and ourselves, support this bill, which entrenches controls, we believe, for the same reason that in order to get across the river you have to get wet. After you have built the bridge, you do not have to get wet any more.

Thus, if we put in these forms of controls, which are less onerous than the ones that are in vogue now, if we put in the rates of return that are there, albeit controlled rates and if we put in the tenant protection clauses that are inherent in this bill, we think we will have established a better climate for us to be able to do our thing, and that is to build buildings.

We cannot build buildings without a return; but with the indication that there is going to be some return, then we can build buildings. We are quite convinced that as we build these buildings, as the marketplace improves, as the vacancy factor starts to go up and as the free market starts to work, controls will be unnecessary, so you may have a whole host of laws, etc., but they become moot. Once the thing is working on its own, you do not need them any more.

We think that is a step in the right direction. The end of controls is in sight with this kind of legislation, but it requires that the marketplace works; it requires that the vacancy factor goes up. You will not get that by more of the controls that are in vogue now. You are going to get it by controls that are less stringent and are more tied to the reality of the marketplace. The analogy of swimming the river is a good one. In order to get the first cable across, somebody has to get wet. That is what we are doing, getting wet. Once we get the cable across the river, we are going to be able to start building the bridge, and then we will not get wet any more.

The second question was whether there was any discussion on the phasing out of rent controls. We eat, sleep, live and dream the idea of phasing out rent controls, but it goes right back to--

Mr. Bernier: There is nothing in the bill. Nothing was advanced at the Rent Review Advisory Committee.

Mr. Grenier: Within the RRAC?

Mr. Bernier: Yes.

Mr. Grenier: I can tell you that within the RRAC the phasing out of rent controls is not something that is even entertained.

Mr. Bernier: Do you advance it?

Mr. Grenier: We advance it almost every day as part of our argument. The tenants do not listen to us, and I can understand why. They have a different philosophy; they have a different understanding of the marketplace. Whether they are right or wrong is not for us to judge. We think the marketplace is ultimately going to triumph and get rid of controls.

I will tell you what is more. When that happens, we think the tenants will be happy too, because when the supply is there and the tenant can say to the landlord, "Stick it in your ear; I am moving across the street and I am going to get a better deal," he is going to be happier than if he has to sit down and fight with the landlord about what he is going to pay or what he is going to do.

The first step is to get something in place, which we think is Bill 51, that is the springboard to more supply.

Mr. Bernier: I wish I could share your enthusiasm and your--

Mr. Grenier: I have had the other route for 10 years, so I am willing to try a whole lot of things now.

Mr. Gordon: Mr. Schwartz, when we first started hearing about the efforts of the fair rental people, there was great to-do and talk about the chronically depressed apartments and what they were doing to the owners. We heard a lot about sweat equity. This was almost one of the key areas of concern of fair rental.

You represent those small landlords. That is what you told us this morning.

Mr. Schwartz: Yes.

Mr. Gordon: At the same time, after all we have heard about the chronically depressed rents and all we have heard about sweat equity, I think I am probably quoting you correctly when you said you are now looking to this committee to take care of those people after all the deliberations of the RRAC.

Mr. Schwartz: Yes.

Mr. Gordon: It sounds to me as if those owners are being left hanging.

14:20

Mr. Schwartz: Let me try to respond to your question. The chronically depressed rents or buildings with rents that are way below market turned out to be one of the most thorny issues with the RRAC. That is one of the few issues that has not been completely resolved. I happen to be the chairman of the subcommittee for chronically depressed rents, and as of now we are still making valiant efforts to see if we can come up with a common position for the RRAC as a whole to this committee. We hope we may be able to do so. As of now, we have not.

Just as we could not resolve the composition of the maintenance board, we could not reach a common position on the makeup of the members of the board. If we cannot resolve this issue and we are unable to reach an

agreement, it is only logical to conclude that perhaps this committee will have to be the Solomon that will come up with a wise solution by way of adding something or amending something. As of now, we are still trying our best to reach a common position.

Mr. Gordon: How long have you been involved in the RRAC?

Mr. Schwartz: From the very beginning. All appointments were made at the same time.

Mr. Gordon: I see. Yet this delicate balance we have been told so much about does not include the sweat equity people or the chronically depressed.

Mr. Schwartz: It does include them. If you read Bill 51, there was a reference to it in the position paper the government brought out last December. There is a recognition of this problem. The government has identified the problem that a number of buildings were caught in a position in 1975, way back when a different government was in power. Because they were not as sophisticated, well informed or well organized as the larger corporations, they were caught with these low rents and had no way to adjust to market legally. The government recognized that.

The government also recognized, as is stated in the position paper, in the assured housing paper, that a great majority--the paper mentioned 80 per cent, although some argued only 75 per cent or 70 per cent--of tenants in those buildings could afford to pay more. It seemed as if something should be done to right the wrong, not to let these people be indefinitely in this depressed position where they could not legally come up closer to the average rent levels.

The Acting Chairman: Mr. Gordon, Mr. Elms and Mr. Church want to comment on this issue.

Mr. Taylor: I do too.

The Acting Chairman: Let me go to the Mr. Elms first.

Mr. Elms: I was just going to say there may be an element of confusion in the area of two points Mr. Gordon has raised. One is specifically the problem of chronically depressed rents and the other is the problem of the landlord not in the past having been allowed to receive fair compensation for his sweat equity, for the actual time he probably spent in doing the work himself. That issue is one we have resolved very thoroughly. I think both sides will agree it is only right that any landlord who does the work himself should receive fair compensation, as laid out in the bill.

In fairness to us as a committee, the landlords and tenants on the committee wish to address the problem of the issue of the chronically depressed rents in a fair manner. The problem to a large extent was initially not having it defined. We did not know how large the problem was; we did not know where it was; we did not know what buildings we were talking about. The reality is that until we had that kind of information, we were not going to try to talk in the short time we had to solve all these issues in just cosy terms. Therefore, we said, "Let us wait until we have the study and the facts in front of us, and then we can genuinely sit down and find some real solutions to this problem."

Committee members may be aware that we have just received that study. Some members of this committee asked for the study when the committee started doing the hearings. At that time, Dr. Lavery said there were some problems in getting the study finished on time. Since we have just received it, that is a large part of the reason that we have not dealt with it and come up with an answer to the problem. It is not because this is a problem with which we did not wish to deal.

Why has the RRAC met for all this time and never come to a solution of the problem? Was it because it did not care? There is none of that involved. Simply, we did not have the details in front of us to make reasonable suggestions for what the proper solution should be.

Mr. Church: I have a very quick point of clarification. The RRAC agreement does agree in principle on what should happen to chronically depressed rents. There is no problem with the principle. The government acted unilaterally, and Mr. Gordon went on about it at some length in the original staff briefing. Unilateral government policy set the two thresholds of 20 per cent below the market and a 10 per cent trigger on rate of return. Those are specifically the issues Mr. Schwartz is complaining about. They are not RRAC figures; they are government figures.

As Mr. Elms suggested, if between now and the time the clause-by-clause is done the RRAC is able to reach agreement based on the fact that--in all fairness to everybody, we had a lot of trouble with the study, which literally has become available only in the past two weeks. It has been an information gap more than anything else. The principle has been agreed to by the RRAC, but not the details.

The Acting Chairman: Mr. Gordon, would you like to continue, or will you give Mr. Taylor a chance for a supplementary?

Mr. Gordon: Mr. Taylor can have a supplementary.

Mr. Taylor: It was precisely the area I was pursuing before the lunch break. I appreciate Mr. Gordon's contribution here because I think it is an important issue. We heard the hard cases evening after evening. This committee listened to some real heart-rending stories from landlords of small buildings. Many were immigrants who came to this country, the land of opportunity, worked hard, made all the sacrifices, and their security in their old age was in this little building. We have heard that.

They were confronted with a system that was so sophisticated, if not complicated, probably both, that they could not seem to use the system to adjust the inequities that were there. In other words, there may have been remedies for them through the existing rental process, but by the time they considered the system--you had your lineups, waiting periods, legal fees and that type of thing--it was a system they probably found intimidating. That is the impression I got.

You made your own presentation, as their representative. I was interested in your conclusion because, here as a committee, we have a piece of legislation which is not a panacea either for landlords or tenants. At the same time, it was presented as a compromise that would be at least one step forward. Maybe it would set the stage for something greater to come. I do not know. However, it is better than what is out there now, both from the landlord's point of view and from the tenant's point of view.

What I was trying to get from you, sir, was the position that you took formally; that is, your association's formal position in terms of this bill. Are you for it or are you against it? I know it may be difficult, but assuming that there are no amendments, that what we have is a manifestation of the accord or the compromise between landlords and tenants as worked out through the RRAC, is your position here to go with the bill even though we do not get what we would like to get, or are you saying we should hold up the bill? That is my first question. I want to know where your association stands.

Mr. Schwartz: If you had read the transcripts or the actual presentation of the Multiple Dwelling Standards Association, you would see quite clearly that we are saying, "Do not hold up the bill." We are not saying you should hold up the bill. We are saying you should pass the bill, but at the same time we are pointing out some of the imbalances there.

14:30

Mr. Taylor: Excuse me. I was here through most of these proceedings, except for a period of time when the committee travelled to certain cities and I gave up my position so that our Housing critic could sit on the committee, but otherwise I have been very attentive. My impression of the message you are giving is that you support the bill.

Mr. Schwartz: Oh, yes. I support the bill, but at the same time I strongly point out some of the inequities and imbalances, which cannot be left the way they are.

Mr. Taylor: All right. If the worst comes to the worst--and this is my interpretation of what you are saying--then let us go with the bill. In the meantime, however, you would like some adjustment in the bill. Is there potential for adjustment in the bill? Could I put that to the others here?

Mr. Grenier: Of course there is potential for adjustment in the bill, and the bill can be adjusted at virtually any time. It requires that both sides agree, however. If you came to us and said, "Okay, we understand Mr. Schwartz's problem; we are quite prepared to adjust the bill and we are going to give that sector of the economy a 25 per cent bonus," then you would have to turn around and give the same thing to the tenants, because it would be totally unfair to give something to us and not to them.

The difficulty in arriving at the solution is to be fair. We do not want unfair advantage. We just want to be fair. If you are going to give us something, give them something, and vice versa.

Mr. Taylor: Can you come up with something on this?

Mr. Grenier: We have not been able to. That is the difficulty.

Mr. Taylor: I see. Notwithstanding the additional research that we have heard about, you still have not been able to arrive at any consensus that you can bring over.

Mr. Grenier: That is right. We have not been able to fine-tune that one area as we have been able to fine-tune almost everything else. I referred to two areas at the beginning when I was first here--not today but the last time I was here. We were 85 per cent along the way. We are now 90 per cent along the way. We have a maintenance board virtually done except for representation. That is the only minor area we have not been able to resolve.

On chronically depressed rents, the philosophy is there. The study is now in, and we may well be able to resolve that. If we do not, then to use Jan's words, you may have to be Solomon and resolve it for us; but when you resolve it, be sure it is fair to both sides.

Mr. Taylor: You will not find any Solomon on this committee, as far as I am aware.

The Acting Chairman: I stop in only briefly.

Mr. Taylor: The point is that the committee has not been able to come to any conclusion, any recommendation. The committee has been placed in a position of not tampering with this delicate balance.

Mr. Grenier: That is correct.

Mr. Taylor: The most frustrating position for a politician to be in, frankly, is for a piece of legislation to come before a committee and in such a form that if you apply your judgement to that piece of legislation, then you are in jeopardy of upsetting it and then you will have chaos.

Mr. Grenier: I would like to respond briefly to that. Your point is well taken, and that is what we have been wrestling with all this time. Our consensus now is, pass the bill as it is. Let us see how it operates. We believe that if it is not operating correctly, then from people of goodwill in all parties and on both sides, we will know in short order. If the formulas do not work, we will be back to you and the government to say: "There are holes in this thing, it needs fixing and here are the exact cases. Here is the bill applied to exact cases. Now let us see whether we can make amendments en route to fix it up."

We have to start somewhere. That is the difficulty. If you are going to play Solomon, you will have to do a better job than we have been able to do in wrestling with it for eight months. And you may do; we do not know that.

Mr. Taylor: It would be a fraud to play Solomon.

Mr. Grenier: You may do. Who knows?

Mr. Taylor: Anyway, it was a supplementary I had.

The Acting Chairman: That is right. Mr. Elms has a comment, and then we will go back to Mr. Gordon.

Mr. Elms: Thank you. I was going to say that Mr. Grenier has laid out very clearly what the problem is. It is there for both sides. Jan has laid down a problem that he is very much aware of from his constituency and very sincerely believes in. We needed more information on that in order for us to make further recommendations.

We also have a problem that every member of this Legislature should be well aware of on the side of the tenants. You do not have to raise rents for many tenants out there in order to cause an affordability problem. A very real affordability problem exists for many of them even if the rent stays the way it is. In some cases they are going down a little bit. That being the case, any further adjustment, as Mr. Grenier and Mr. Schwartz are pointing out very clearly, has to take into account the balance that must be done on both sides. We need more information in order for us to suggest to you, if we had an

opportunity, what equitable solution has to be there for both sides to address the problem.

Again as Mr. Grenier has said, the tenants on the committee have said time and again, "We stand behind." What we have now is not a perfect solution to the problem of affordability for tenants or to the problem of depressed rents for some landlords. However, as a good step towards solving it, we have put in place a clause on chronically depressed rents that will help a significant number of the worst scenarios.

We have 3,000 additional units of nonprofit housing. By the way, it is not a coincidence that 3,000 new units are what was asked for. If you take a look at the slim figures we have right now, that is just about the number of apartments that will be addressed in the initial stage of the chronically depressed on a per year basis in the worst scenario. We are saying that if we are going to correct some of those chronically depressed rents and cause some people to have to move out, we have 3,000 additional homes for them to move into. That is nowhere near what we have to do to solve the whole problem, but it is the right first step and it is one that provides some reasonable balance for both sides.

Mr. Gordon: I find this discussion very interesting, but it is incumbent on the government, and since RRAC is providing the grist for this bill, we were looking for you people to come forward with a refinement on this issue of chronically depressed rents. You have to couple it with the problem that is faced by tenants. I indicated this morning that I saw a problem there. This will be a very important point to some of us, if and when it comes to passing a bill like this.

Mr. Grenier: We think we will solve it.

I have one last comment before I leave. A very wise man, and I do not know who it was, said that you can do anything if you do not care who gets the credit. I would like to leave you with that thought.

Mr. Reville: David Peterson.

Mr. Grenier: No, I do not think so.

The Acting Chairman: Thank you very much for your help with us today.

The next item on the agenda is to discuss the large document dated October 6, which I gather has been circulated to all members, reflecting the work of Jerry Richmond.

Mr. Richmond: Thank you.

The Acting Chairman: Not that we want to give credit, because I do not think we should feel we need to, but it does have your name on it.

Mr. Richmond: The members can count how many times I mention the delicate balance.

Just so there is no alarm, I am not going to read the 139 pages of the summary into the record. I am merely going to highlight it. If I did read it all, we would be here to the wee hours. Furthermore, my voice might give out before that. I would like some supplementary material that I am going to pass to the clerk to be distributed before I begin.

Let me begin by making some introductory remarks, if I may. Some handouts are going around, to which I will be making reference. Members should not become alarmed if they see the Child and Family Services Act. I am not bringing the Ministry of Community and Social Services into rent review. I will be making reference to those documents in my presentation.

14:40

A few introductory remarks, then. I am pleased to be here from the legislative research service. As an urban planner, I must say that, although the proceedings of the past six weeks have been tedious, I genuinely found them to be of great interest. This has virtually been a crash course in rent review.

Despite our personal views on rent review, or the political views of the members, we can all appreciate the sensitivity of this legislation. Whether you like it or not, simply and directly, rent review affects most landlords in their pocketbooks and most tenants in their chequebooks. That is probably the key reason people are so concerned about this bill.

As I indicated before, I am merely going to be highlighting the summary. I consider it to be a reference document that the members can refer to during clause-by-clause, and I will be here if you have any questions. I would like to acknowledge the backroom assistance of my colleagues, particularly Beth Ward, Dave Neufeld and our secretarial staff who inputted this massive tome into the word processor. The person who invented that piece of machinery certainly did the right thing.

Mr. Taylor: Let us debate that.

Mr. Richmond: Stand that down.

In the summary I have gone through the oral and written deputations the committee received up to and including last Tuesday, September 30. You can see this described in the covering letter. I have pulled out the recommendations and concerns of the deputants and related them to the most appropriate section of the act. If you turn to any of the pages in the text, you can see the basic format. You have the section of the bill in the left-hand column, and next to the bullet points you have the concern or recommendation. Then in parentheses you have the individual organization that raised the point.

At the front of the summary is a list of the 203 deputations included in here. The summary will be updated to reflect additional deputations that have come in and further presentations both last week and this week on the part of deputants to the committee.

In collecting the comments and concerns of the deputants--and I should make general reference to this when you refer to the document--there are two catch-all sections. In section 2, which relates to the application of the act, what I have done--and this is just an arbitrary decision to get these concerns on the table; you can find it on page 16 of the summary--is to collect the various pro and con statements from all the deputants either for or against rent review. I felt it was worth while to put these on the table right at the beginning. I will discuss those in a few moments.

In addition, at the back, from page 135 to the end, there is a miscellaneous catch-all section in which I put various other points that the deputants raised which do not relate to any of the 126 sections of Bill 51,

things such as the Landlord and Tenant Act and government housing programs. I will also speak to those in a few moments.

I did indicate, as is described in detail in the letter of transmittal, that we will be updating this summary. In the near future you will receive a subsequent addition that will include all the deputations.

Incidentally, I do not know what your preferred style is, Mr. Chairman, but if members have any questions, I will certainly entertain them at any time during my presentation or at the end.

The Acting Chairman: Run through it first and we will deal with them at the end.

Mr. Richmond: That concludes my introductory remarks. The next thing I want to do is make a few general comments about Bill 51, all in a nonpartisan sense, of course.

Whether we like the bill or not, and despite what the positions of the three parties might be on the bill, basically I think Bill 51 enshrines a comprehensive and permanent system of rent review for Ontario. There is no expiry date provision in the bill. I have distributed excerpts from the political accord, the accord between the New Democrats and the government, in the handout. You will see that there is reference to rent review legislation in the accord. It is interesting to note that the bill closely matches some of the key points in that accord.

Mr. Reville: It is time it does.

The Acting Chairman: I am glad you are not going to be provocative, Mr. Richmond. Please continue.

Mr. Richmond: Basically, what you have under Bill 51, like it or lump it, is a comprehensive system of rent review in which virtually all the private rental housing stock in the province now is brought under the rent review umbrella, the some 1.1 million units that we have heard bandied about. The two previous key exemptions under the residential tenancy system, the exemption of new construction post-1976 and the exemption of luxury units renting for more than \$750 a month, would be done away with under Bill 51.

Despite the bill's apparent complexity, with 126 sections, some of which admittedly are tedious--we saw this yesterday when we started to get into section 77--the bill can be reduced to about half a dozen key concerns and issues.

The first one, and we heard it this morning from the Rent Review Advisory Commission people--these concerns are in the order of their appearance in the bill. I am not attaching any importance to these. You have sections 14 and 15, the Residential Rental Standards Board. That is an area of concern. It is a new initiative under the bill, an attempt to tie rents to maintenance levels. As we have heard--and the RRAC members admitted it--there are some outstanding concerns about this. I will be highlighting some of the concerns of deputants in a few moments.

Another area of concern, the second one, is the whole issue of the rent registry. I think there is general support for it, but you will see from the deputations that there are some loose ends, rightly or wrongly.

Section 68 is the other key concern, the RCCI, which is the residential complex cost index, the BOCI, which is the building operating cost index, the formula for moving away from a fixed guideline, whether it is six per cent, eight per cent or four per cent, to a floating ceiling roughly tied to inflation. There are some concerns about this. Tied to the guideline are the whole slew of sections--this is really the core of the bill under Ontario rent review--that provide procedures for landlords to obtain increases above the guideline for various criteria and under various conditions. As I see it, to put it bluntly, that is the guts of the bill.

Other concerns, as we heard mentioned a few moments ago by Mr. Grenier and Mr. Schwartz, are sections 77 and 88, which seem to arouse some concern. There is the differential treatment in terms of rate of return afforded to post-1976 to 1987 buildings, and then to new buildings to be built after 1987. Under section 88 there is a differential treatment of pre-1976 buildings under the chronically depressed rents provision. The RRAC people have said that this matter is still under negotiation by them.

Again, some of the key concerns, as I see them, are the standards board, the rent registry, the ceiling and the procedures to get increases above it and then the differential treatment of old and new buildings.

I might add that some tangential concerns have aroused concern in the committee. These are largely outside the strict purview of the rent regulation legislation, but I am sure the committee will debate them in the weeks ahead. Here you have the question of whether Bill 51 will encourage new rental housing construction. You have also had some questions about attempting to tie rent review into government-assisted or assured housing programs. I will be speaking to those issues a bit later.

14:50

Quite recently, just the other day, which may or may not be coincidence, you had the minister's announcement of 3,000 additional nonprofit units for the province.

That completes my highlighting of the bill. I am going to go on to highlight the specific concerns under some of the various sections. I do not know whether there are any questions or whether I should keep going.

The Acting Chairman (Mr. R. F. Johnston): Proceed along.

Mr. Richmond: The first section I am going to comment on is section 2. This section appears on pages 16 through 30 of the summary. As I indicated before, in here I have collected the various statements for and against rent review. These range the full spectrum. On one extreme you have those deputants who support Bill 51 as per the Rent Review Advisory Committee agreement. You can see some of their comments on pages 16 and 18. At the other extreme, you have people such as those on page 24 who are fundamentally opposed to rent review in any way, shape or form. I recall the testimony in Ottawa of Mr. Patterson. Whether or not you agree with his position, he put forward quite forcefully the argument against rent review under any circumstances. The fundamental opposition appears on page 24.

In here you also have the other range of arguments. Deputants have held that rent review discourages investment in housing. Some people objected, and you can see their various statements on pages 19 through 21, to the so-called universal coverage of rent review, in that it provides protection to all

tenants regardless of their incomes. A number of deputants made the case for shelter allowances.

It is too bad Mr. Jackson is not here, because in his standard set of questions, he seemed to pursue this. Some of the options relate to those proposed by deputants to get away from the universal coverage under Bill 51. The details on these appear on pages 23 through 25.

In the interests of time I am not going to read them into the record, but basically you have various options for regional decontrol, municipal opting out and the lifting of rent review to be tied to the vacancy rate. Some deputants claimed that control should be maintained only in the large cities, such as Metro Toronto or Ottawa. On our road trip we heard some deputants claim that in cities such as Windsor, London and Kingston, rent review coverage, as in Toronto, is not needed.

Mr. Taylor: That was supported, I suppose, by your comparative study. It seemed to indicate an unravelling of rent control if you look at those countries you mentioned, and with France now--that is an editorial comment.

The Acting Chairman: I thought it might be. I know it is the kind of thing you want to bring back when we come to questions at the end of Mr. Richmond's presentation.

Mr. Taylor: I thought you might be interested in that interjection, Mr. Chairman.

The Acting Chairman: It is just as well, because I have to leave and I would have missed it otherwise.

Mr. Taylor: I appreciate that.

Mr. Richmond: Thank you, Mr. Taylor. I may respond to that one later.

What I will call these decontrol options are not currently covered under Bill 51. If they were to be brought in under the bill, section 4 is probably the one you should be looking at to expand the exemptions. If the committee or any of the parties should feel that some of these partial decontrol options have merit, that is probably how you could at least attempt to plug them in. I will leave it up to you politicians to decide what that would do to the delicate balance.

With regard to the statements in support of rent review, one possibility might be--and I have distributed excerpts from the Child and Family Services Act. For this act I had the privilege, Mr. Johnston will recall, of serving the committee in a similar capacity.

The Acting Chairman: I remember it well.

Mr. Richmond: If you turn over the pages, you will see the reason this act is notable is that it has a declaration-of-principles section. If you wanted to enshrine those principles that reflect this comprehensive system of rent review in the act, one possibility might be to include such a section in Bill 51 on the declaration of principles. You can see in this statute where that was done.

In terms of where you could get the principles, in the yellow RRAC

report on pages 3 and 4, there are descriptions of some of the directives that the government gave to the RRAC group. Also, in the minister's statement of yesterday, some principles were espoused on the guiding principles for Bill 51.

If the committee chose, these principles could be reconstituted--not like Minute Maid orange juice--in the form of a section in the bill. Let us call it, possibly, a declaration-of-principles section.

Mr. Reville: I feel an aside coming on. Should it be with pulp removed or not?

Mr. Richmond: I will leave that once again.

The Acting-Chairman: That is one of the few areas where the committee does have leeway.

Mr. Reville: Pulp added.

The Acting-Chairman: Pulp added. You may want to make that decision on your own later on.

Mr. Richmond: I do not know whether that would tip the balance. So much for our possibly humorous interludes.

Mr. Reville: You are being very apolitical today, Mr. Richmond.

Mr. Richmond: The next section I would like to comment upon is section 4, the exemptions section. This appears on page 30 of the summary.

I am just flagging a few of the concerns the committee might wish to address. There was some discussion by deputants and by the northern members--I believe by Mr. Bernier and by Mr. Pierce when he was here--with regard to the current comprehensive coverage of mobile homes under Bill 51.

There was some discussion and there is a point on page 30, the third point under section 4. I will just read this one which says, "New mobile home parks--particularly where owners own their homes--should be exempt from Bill 51 to allow such parks to compete with the developers of single-family homes."

One of the other themes on this issue of coverage of mobile homes was the parks in which owners actually own the unit, and there was some discussion as to whether seasonal parks should be covered. This is an issue that the committee may wish to debate. Currently, it would appear that mobile homes are virtually completely covered under Bill 51.

One of the other concerns with regard to exemptions--and you will see these on pages 31 and 34--was that tenant groups both in Toronto and Ottawa expressed concern over the apparent need for clarity on the possible exemption of apartment hotels. This was on the previous version of the bill. The amendments to the bill tabled by the government in clause 4(1)(a) would seem to overcome this concern.

There were a number of deputations. You can see those, as I indicated, on pages 31 and 34 from tenants groups regarding this dodge tactic--I think they termed it--to get around rent review. There are noted cases before the courts with the Residential Tenancy Commission and Tabco. Under the revised Bill 51, it would seem that apartment hotels would not be exempt from the act. There was this concern.

On page 34, I draw to the members' attention clause 4(1)(e). There was a deputation from the Metropolitan Toronto Association for the Mentally Retarded with regard to its concern that the homes it rents are currently exempt from rent review. You can see this as the third point on page 34.

This is a technical matter that the committee may wish to pick up on. Under the revised bill, the concern of this social service agency does not appear to have been taken into account. The committee may wish to address that and the date it should be brought under rent review protection.

If my recollection does not fail me, the gentlemen who appeared was concerned that the homes they rent on the private market are currently exempt from residential tenancy protection.

15:00

The next section I would like to comment on is section 5, which appears on page 35, subsection 5(1). The point I will bring to your attention is the third point down the page put forward by some small landlords. There is the noted case of Mr. Smithers out on the Kingsway under this and is a controversial one.

Some small landlords put forward the proposition that essentially they should be allowed to contract out or opt out of rent review where there is the mutual consent of the landlord and the tenant. I do not know what you want to do with this. I remember Ms. Caplan discussed this with Mr. Lawrence, the young man who wanted to rent Mr. Smithers' suite.

I am just flagging this; it is up to the committee to consider. This is a controversial one because neither under the current residential tenancy system nor under the Bill 51 proposal would this opting-out provision be allowed.

The next section I would like to address is section 8, administration, which appears on page 36. If you look down the comments--I am not going to read them into the record--here you have the concerns collected. We have heard the concern from both landlords and tenants, primarily small landlords over the alleged complexity of Bill 51. I do not know how you address this. If you want to get around the complexity, conceivably the committee could do major surgery on the bill. The provision in the bill that would accommodate this is clause 11(a), the education program to be embarked upon by Mr. Peters and his people.

Mr. Reville: For how many years would the committee have to go to school before it got it?

Mr. Richmond: I will not respond to that one.

That is really the response to that.

Another possibility might be in the education program. You will see this in some of the deputations on page 37 and 38 on the public information program to more directly involve tenant legal aid clinics, community service groups and possibly even involve the fair rental policy or multiple standards people. The ministry may wish to involve these established landlord and tenant organizations in the education program. I am sure Mr. Peters will explain that to the committee in due course.

I would like to make some comments on page 39 of the summary, subsection 11(d). This section provides for the continuation of the RRAC consultative process. You will see the first point on the top of page 39.

There is general support for this continuation of the RRAC to review or to look at the Landlord and Tenant Act. There seems to be general support. In the groups that have put forward the viewpoint at the top of page 39, are the London chapter of the Fair Rental Policy Organization and the Amherstburg tenants. There seems to be a balance there and support from both the tenant viewpoint and the landlord perspective.

The next sections are some of the key ones that I mentioned before on the maintenance board, sections 14 and 15. These take up a fair chunk of the summary, some 12 pages from pages 40 to 52. I will leave it up to the committee to peruse these at its leisure.

I will just highlight some of the key concerns under the Residential Rental Standards Board provisions. I am highlighting a few on page 41, if you are interested. From a tenant perspective, a major concern is to get value for their money in the form of good maintenance. Ironically that was put forward by Mr. Elms, who was in the audience.

From the landlord perspective and from the RRAC presentation this morning, it seems that this issue of representation has still not been resolved. In the second last point on page 41, I am quoting the fair rental people, the Urban Development Institute and Mr. Sifton, a London developer: "It was recommended that it be specified that at least 50 per cent of board members must be landlords."

We have heard the proposal that is being bandied about now, the 40-40-20 split. Mr. Grenier indicated that the composition of the standards board has still not been resolved by RRAC.

Some of the other concerns under the standards board--and I am just highlighting--are that "The maintenance standards represent an excellent but virtually unenforceable provision."

We also heard with regard to clause 14(2)(d), the question of landlord-tenant consultation. There were some concerns expressed primarily by the Fair Rental Policy Organization of Ontario, and I believe this concern has been largely accommodated in the revisions tabled by the government to Bill 51. I will read some of the concerns:

"This provision should be amended to require a dialogue rather than a consultative process." Indeed, if you look at the amendments, the word "dialogue" now appears in the appropriate section, so it seems this one has been covered.

There are some similar landlord concerns: "The final decision must continue to rest with the party at risk--the property owner." I am reading from the bottom of page 44.

A similar concern over this whole mechanism was expressed by Mr. Sifton, a London-based developer. I am reading from the middle of page 45. He expressed concern that the bill "oversteps the bounds of property owners' rights to manage." This was a common theme from the landlord perspective.

In terms of subsection 15(2), municipal enforcement of the maintenance

standards, some of the concerns are highlighted on page 47: "Concern was expressed regarding the possible duplication of municipal property standards." Reference has been made to the appropriate section of the Planning Act.

Another concern: "It was recommended that the act be amended so that enforcement of standards is jointly a municipal-provincial responsibility, funded by the province." We heard this morning the questions with regard to the position of the Association of Municipalities of Ontario on this standards process.

Another concern on page 48: "Concerns were raised regarding" the alleged "current inefficiency of municipal building standards enforcement." I know that during the hearings Mr. Reville and I, in view of his previous municipal political experience, exchanged some comments on the efficiency or inefficiency of the whole municipal enforcement. Ms. Caplan, from her experience in North York, may have some personal experience on this also.

Other concerns relate to subsection 15(3), which relate to notice to the minister of noncompliance. I am now highlighting from page 49. It does not appear that they have been taken into consideration in the government-introduced amendments.

The third point is, "Concern was expressed that there is no provision for a right of appeal from a noncompliance order, nor is there any mechanism whereby a landlord can challenge the actions of the municipality in issuing a notice of noncompliance." This concern was expressed, as you can see there, by some of the development industry representatives. There is a similar point underneath: "An appeal procedure must be established," and they make the point that there is a need for an appeal procedure similar to that under the Ontario new home warranties plan. Those concerns are on page 49.

There are other concerns with regard to subsection 15(5), relating to applications or appeals not proceeded with. The fourth concern on page 50 was put forward by the fair rental policy people: "This section should include the concept of a 'substantial violation of a substantial maintenance board order.'" In that case, it would appear that this concern has been picked up in the underlying ministry amendments to subsections 15(3) and (4).

Clause 15(5)(b) relates to matters beyond the control of the landlord. In the explanation these were considered to be acts of God, floods and major catastrophes. The tenants took exception to this provision. I am highlighting some of the concerns from page 52. "It was recommended that this paragraph be deleted. The stay on rent increases should not be discretionary." That was put forward by Parkdale Community Legal Services. At the bottom of the page is a similar concern from the Centretown tenants in Ottawa. "The term 'beyond the control of the landlord' should be clarified."

15:10

That concludes my highlighting of sections 14 and 15, the Residential Rental Standards Board. You can see that there were a fair number of deputations on that one.

I will move along to the procedure part of the act, clause 29(1)(c). This section provides for administrative review, a new feature, to get away from what has been described as the more formal legalistic procedures under the current Residential Tenancy Commission. The concerns appear on pages 57 and 58. Let me highlight a few of them.

Some tenant legal groups seem to have the reservation about this section that it might deny their clients their full legal rights. From the bottom of page 57, I will quote a concern expressed by the Law Union of Ontario: "Preference was expressed for the retention of an initial level hearing as under the current residential tenancy legislation rather than administrative review."

Over the page, in this section deputants also commented on the controversial tenant-landlord dialogue issue. From the Fair Rental Policy Organization of Ontario, "Provision should be made for landlord-tenant dialogue, not consultation." Under this section, other comments were made and are highlighted on page 58. "Support expressed for ability of landlord and tenant to get together and agree on rent increase over and above the ceiling." This would smack of the opting-out provision, and with respect, it would not appear that type of allowance is contemplated under the administrative review or under the rent review legislation as currently struck.

With respect to the overall concern about deputants having misgivings about the administrative review procedure--the committee can discuss this--one possibility is to allow deputants, one party or both parties, to opt out of the administrative review if they so choose and possibly go right into the appeal mechanism. I do not know whether that is practical, but you can discuss it.

I will move now to the rent registry deputations. These take up a block of the summary. The specific comments appear on pages 62 through 75. The rent registry has a long history. It was supported at the time of the Cadillac Fairview flip by Dr. Elgie when he had rent review responsibility as Minister of Consumer and Commercial Relations. The concept of a rent registry was supported in the first volume of the Thom Commission of Inquiry into Residential Tenancies report. You will see from the material I distributed that it is also reflected in the Liberal-New Democratic Party accord.

Let me highlight some of the specific concerns about the rent registry. On page 63, there was the earlier concern over the exemption of rooming and boarding houses from the registry. This concern was addressed in the amendments to the bill tabled by the government last week. It appears that this concern has been accommodated in the amendments to subsection 55(2). Boarding and lodging houses now will be covered at the same time that small rental buildings, those of six and fewer units, come under rent registry.

Some of the other concerns on the establishment of the registry are highlighted on page 65. There is support from both tenants and landlords--the third point on the page--"expressed for the idea of a comprehensive rent registry." At the same time, some small landlords objected to this concept."

There is a red herring on page 65. I do not know where this belongs. It might more properly belong under the Landlord and Tenant act. Some small landlords maintained that in addition to a rent registry there should be an undesirable tenant registry. That concern is reflected on page 65. I do not know whether the committee wants to touch that one with a 10-foot pole.

Mr. Gordon: Is that a political comment?

Mr. Richmond: Oh, no.

There are some other concerns. Some deputants maintained, and this came from some small landlords, that the establishment of a costly registry will

lead to a loss of rental units. It was maintained that when some small landlords see this registry coming on line, they will take their basement suites or single units off the rental market.

There were concerns about the complexity and cost of the registry.

As to subsection 55(2), there were concerns expressed by tenants--it is the second point on page 68--about the need to specify a deadline for small landlords to come under the rent registry. There was some tenant concern that this provision is open-ended. It does not include a date. The date of July 31, 1987, was suggested.

On page 71, on section 60 dealing with justification by the landlord of the actual rent, there emerges the popular tenant allegation and concern that the principle of retroactive justification of illegal rents is insupportable. This crops up later, too. In section 63, it crops up with regard to rebates for rents filed on time. We have concerns expressed by tenants. "The proposed rent registry system starts with a ratification of illegal rents paid up until August 1, 1985."

Deputations, also from tenants, said this section should be deleted and the six-year limitation on recovery of illegal rents should be preserved. Similar concerns are highlighted on page 74. "Concern expressed that the rent registry can develop"--this is from the landlord's perspective--"into a witchhunt on illegal rents that were not limited to August 1, 1985."

There was a similar landlord concern with regard to rent rebates. "A subsequent owner should not be responsible for rebates of illegal rents where he bought the property prior to this act coming into force. After the act is in force, a buyer will be aware that he must protect himself." There is that concern over the obligation of current purchasers for the illegal activities of previous owners.

Concern was expressed by the Centretown tenants on the rent rebate provision. They coined the phrase "rent amnesty." Concern was expressed that this provision might lead to landlords requesting further rent amnesties. This is on page 74.

We heard from the ministry people in terms of the cut-off date that there is a balance as to what is administratively possible. For 11 years under rent review we did not have a rent registry and now one is going to be brought in. There is the question of how far you can administratively and feasibly track back illegal rents. I am sure that will be something the committee will bat around.

The next section, as I indicated earlier, is really the core of rent review in Ontario, the rent regulation, part VI of the act. It encompasses sections 67 through to 97. It occupies a significant chunk of the summary, from pages 76 through 122. Let me highlight some of the key sections, beginning with clause 68(1)(a), the four per cent guideline. These deputations appear on pages 78 and 79.

15:20

From the tenant perspective, there is some concern that the four per cent guideline is going by the wayside. That is the key theme of the deputations.

Moving to clause 68(1)(b) and subsection 68(2), the residential complex cost index and the building operating cost index, the new floating, annually determined ceiling or guideline increase, the comments and deputations on these key sections appear on pages 79 through 85 of the summary. In addition, at the back of the summary, on pages 131 through 134, there are some supplementary concerns relating to schedules A and B of the act, which also relate back to the RCCI and the BOCI.

I am not going to read the comments but they range all the way from landlords who support the RCCI-BOCI formulation as a reasonable compromise agreed to by the Rent Review Advisory Committee to tenants who feel the formulation is too rich, particularly during our current times of low inflation, with inflation running at four per cent or thereabouts, and positions are put forward that the two per cent factor in the RCCI should be removed.

Other tenant deputants put forward different formulations of the RCCI-BOCI formula--these might be of interest to Mr. Reville--such as reduction of the two-thirds share of BOCI. Maybe I will highlight a few of these. I am reading from page 79 of the summary. From the landlord perspective, "Concern was expressed that it is extremely doubtful that landlords would be willing to supply any new rental accommodation if these amounts are reduced in any way." This reaffirms approval as per the RRAC agreement.

From the tenant perspective, one submission, at the bottom of page 79, was that "RCCI should be set at 75 per cent of BOCI." On page 80 we see, "Support expressed for the fairer relationship of the formula to be based on inflation under Bill 51," as compared to what deputants referred to as a previous arbitrary ceiling, I guess the six per cent, the eight per cent or currently four per cent.

Also, "Concern was expressed about the complexity of RCCI and the fact that landlords will receive a two per cent bonus." This was put forward by Councillor Gardner. A similar concern is highlighted on page 81. "Concern was expressed about the scrapping of the four per cent guideline and the fact that the new RCCI guideline will be higher than inflation."

On page 82 there are some alternative formulations to the RCCI-BOCI formula, put forward largely by tenants. It is advocated that the two per cent should be eliminated altogether as there does not appear to be any justification for it. Another point of view is, "The statutory guideline should be adjusted to reflect two per cent and 60 per cent of BOCI."

Another point of view, the last one on page 82, recommends deleting the two per cent and "inserting 0.75 times the percentage increase in the three-year moving average of BOCI." There are some different formulations to the formula that have been put forward. There are a number of specific concerns that I would like to highlight with regard to the guideline increase. On page 132--this is in the sections at the back, schedules A and B. This one happens to be schedule A. These also relate back to the residential complex cost index and building operating cost index formulations. The last one on the bottom of the page merits highlighting because it is of perennial concern in many municipalities that go through reassessment. We have seen the many press reports of the attempts in Metro even to get towards a property reassessment.

The position was put forward that the municipal tax factor in the RCCI should reflect actual mill rates in each municipality. In addition, changes to

the market value basis assessment method can result in radical property tax increases. This concern is addressing, rather than the formulation under the BOCI, the idea that if a municipality goes to reassessment, the actual property tax increase should be taken into account. In retrospect, I believe in clause 72(b) under extraordinary operating cost that the landlord would have the right to recover these costs in the rent. It is not something that would occur as of right. The landlord would have to go to rent review to obtain it.

Another technical concern is reflected in the handouts. There is an article by Mary Wood in the Toronto Sun, dated October 4, and this concern was put forward by numerous deputants. It is the third point on page 85. Concern was expressed about the delay by the government in setting the current guideline beyond the four per cent. Some landlords expressed concern with regard to the rent increase notices that have to go out 90 days before, about what the guideline increase is going to be for 1987. This is a technical concern which you can see reflected in the third point on page 85 and in Mary Wood's article. It might merit some technical adjustment by the ministry to clarify this.

Section 72 is a catch-all listing of the general factors for landlords to obtain increases above the guideline. From the tenant perspective, which I highlight on page 88, the concern was put forward about the potential for high rent increases under this general section. I guess they were alluding to the possibility of so-called stacking of increases due to the various factors. This was a concern we heard put forward.

On page 89, with regard to clause 72(a), there is a technical concern from the Fair Rental Policy Organization of Ontario people about the RCCI reduction of RCCI minus one only applying in the case of capital expenditures. They put forward the point of view that what was currently in the act is a deviation from the RRAC agreement. That point might merit some technical clarification when we get into clause-by-clause.

Subsection 75(2), the section on the 80 per cent reduction of previous capital expenses, appears on the summary on pages 93 to 95 in a range of comments. Generally, landlords support this provision. You can see on page 93, in the second point from the bottom, support is expressed by Mr. Sifton in London. On the other hand, tenants expressed some concern, and you can see their points on page 94. In the second point from the bottom, they maintain that 100 per cent of the capital expenses should be eliminated. The third point from the bottom expresses concern that this section will not provide protection prior to the 1985 cutoff. You have two opposing views there.

15:30

I move on to subsection 76(3). You have to understand that I am just highlighting the concerns of these financial clauses. The members are completely free to consult the summary and I am here if you have any specific questions. In the interest of expediency, I am merely highlighting.

On page 96 are the concerns about subsection 76(3), the treatment of financial cost from a purchase. From the landlord perspective, opposition was expressed to this provision being made a permanent feature of rent review. I believe from the history of it, that it was inserted when Dr. Elgie was minister at the time of the Cadillac Fairview flip. Other landlords maintain that this five per cent ceiling on new financing should be eliminated and that this section depresses the value of such buildings.

From the tenant perspective, however, concern was raised about the impact of this provision upon rents. I believe that a specific alternative was forwarded by the Bayview Village Place Tenants' Association. They put forward the position on financial loss, which is the third point from the bottom on page 96. They advocate a longer pass-through period and that the maximum increase for this factor should be two per cent rather than the five per cent now provided for under the specific section.

That highlights the two opposing views there from both the landlord and tenant perspectives.

I now move to section 77. This section will undoubtedly generate significant discussion, in view of the discussion the ministry staff attempted to begin yesterday. It is a new provision of Ontario rent review. It sets a rate of return for new buildings, post-1976 to 1987, that were previously exempt. New construction from 1976 to 1987 gets 10 per cent. New construction post-1987 gets a factor related to the long-term bond rate plus one, if my recollection does not fail me.

The concerns on this appear on pages 97 through 101 of the summary. Let me just highlight some of the concerns.

I am highlighting on page 97. The Law Union of Ontario expressed concern that this provision will result in larger rent increases for tenants and should be eliminated. From the landlord perspective, support was expressed for this provision to ensure that investors have the opportunity to earn competitive yields. From some of the small landlords--this may reflect on some of Mr. Schwartz's groups' concerns, and his group, the Multiple Dwelling Standards Association, is listed in the second point from the bottom on page 97--the provisions of this section are unfair in that they do not apply to the owners of pre-1976 buildings.

There are some other concerns. On page 100 of the summary, clause 77(2)(a), the Bayview Village Place Tenants' Association, in the second point from the bottom, put forward once again an alternative proposal for the treatment of financial loss. They advocate a longer cost pass-through period, eight to 10 years, and a two per cent cap rather than five per cent provided for under the legislation. Indeed, they put forward the same position. You will see it on the top of page 101. It is a similar point of view with regard to clause 77(2)(b).

Let me move on now to subsection 79(2). The concerns appear on the summary on pages 102 to 103. This section deals with equalization of rents by the minister. On page 102, it says, "Concern expressed that this provision will be hardest on stable tenants who have remained in the building for many years." On page 103 is an alternate proposal, once again, from the Bayview Village Place Tenants' Association. They seem to be quite innovative in that they made specific proposals. A number of deputants merely said whether they liked things, but this tenant group seems to have gone a bit further and, in a number of cases, actually said what they would rather see in the bill.

In the third point on page 103, they put forward the point of view that any phase-in regarding the equalization of rents should be held to two per cent per year rather than the five per cent allowed under the act to ease the financial difficulty for many tenants.

The next section I am going to highlight is subsection 81(3) and this deals with a landlord application for equalization. It appears on pages 104

and 105 of the summary. Some of the comments, on the bottom of page 104, are: "The phase-in of equalization increases should be more gradual. This subsection should be amended to reduce the five per cent annual increase due to equalization, to two per cent."

The next, just a minor thing--we in legislative research are not perfect--is a typographical error I noticed on page 106. Section 85(c) should be subsection 85(4).

Next, I am going to comment on section 86. This deals with a new feature of rent review, a provision for a conditional order for capital expenses. This is a new feature of the act. At the top of page 107 you will see general support for this. It is not universal, but there is general support for this new provision from many landlord groups.

Section 88 is very popular in terms of the comments. It appears in the summary, pages 107 through to 115, and is the notorious one dealing with chronically depressed rents and treatment of pre-1976 buildings--a two per cent bonus on the rent subject, as we have heard, to fairly stringent criteria. Highlighting some of the concerns, on page 108 of the summary, is the comment that some of the small landlords put forward the point of view that "it will be difficult for small landlords to assemble the data to satisfy the qualifying criteria" for the chronically depressed rent provision." We have heard also that even the Rent Review Advisory Committee has not fully resolved this issue.

Also from the landlord's perspective: "Concern was expressed that many landlords will not be able to qualify for the chronically depressed rent provision." This concern relates to the fact--and we have heard from the ministry people in view of the York University study--that some 18,000 to 20,000 units might qualify for the chronically depressed rent provision.

From the tenant perspective, they expressed opposition to this section. as you will see in the third point from the bottom on page 108. Over on page 109, concern was put forward by the Parkdale Tenants' Association and the Ottawa-Carleton tenants as follows: "'Chronically depressed rents' represent affordable housing to those who cannot afford to live elsewhere." This was quite a common worry of tenant groups with regard to the chronically depressed rent provision, because we received statistics that showed in general these units are at the low-rental end of the market.

On page 111, I will read the third and fourth points from the bottom into the record. They are interesting with regard to the chronically depressed rent provision, "Consideration should be given to allowing such rents to increase where the landlord makes such units available through the Ontario Housing Corp. to low income tenants." The Centretown tenants put forward the position that, "It may be possible for the province to purchase chronically depressed or low end of market buildings, especially if it is not possible to retain them in the private sector."

The reason for these comments, no matter what you may think of them, is that they were some of the few that tried to bridge the gap between rent review and provincial housing policies or programs. That issue might be debated in the weeks ahead.

I just have to consult one of those pages that fell on the floor.

The next section is subsection 89(1), which deals with a phase-in order for rent increases. It appears in the summary on page 116. There was a very interesting proposal, which I believe the committee at the time found interesting, from the Amherstburg tenants that appears on the top of page 116; it was also supported by the Dieppe tenants in Windsor. You see at the top of the page that they have put forward a proposition essentially to eliminate the stacking of increases for these various factors and to put a five per cent cap on the guideline increases for these factors. That was an interesting proposal, and I recall some of the members of the committee questioning the ministry staff. That type of provision is not contemplated for in Bill 51 as it stands at present.

To move on, I felt obliged, in view of yesterday's perennial comments about the regulations and where they were--this crops up in many bills; I have seen it several times in bills that come before the House and before committee. It is too bad Mr. Gordon is not here.

Anyway, on page 127 of the summary, with reference to section 114, the regulations section, the third point on the page says, "Concern was expressed regarding the delay in the preparation of the regulations." I know we heard yesterday that the regulations were being drafted, but I just thought it worth while to point out that someone also said this.

With regard to section 116, which deals with the right to organize, the summary comments on this section appear on page 127. The last two points on the page from the tenant groups are of interest and I will draw them to the committee's attention. They might be debated when you go through the bill clause by clause.

From McQuesten Legal and Community Services in Hamilton the viewpoint was put forward:

"We are concerned that the provisions of the present act prohibiting harassment of the tenant for the purpose of forcing the tenant to vacate a rental unit have been dropped. The dropping of that provision from rent review legislation may weaken whatever protection tenants have and this provision should therefore be restored."

I am just drawing that to your attention.

Mr. Jackson: Which one was that again?

The Acting Chairman (Mr. Warner): Page 127, the bottom point.

Mr. Richmond: Page 127. The last point on the page.

Mr. Jackson: Who is the MLCS?

Mr. Richmond: The only other comments I will make are, if you turn to page 135 of the summary, as I indicated earlier, this is another one, in addition to section 2, of the so-called catch-all sections. In here we assembled all the various comments that do not really relate to a particular section of Bill 51, but some of them are being addressed and I will just flag them.

Concern over the operation of the Landlord and Tenant Act was mentioned often by many of the small landlords. This concern appears as the third one from the bottom on page 138. We have heard that RRAC is going to be reviewing the Landlord and Tenant Act in the near future.

There are other concerns in here. You have ideas from various deputants with regard to what direction provincial housing programs should take. These might be of interest to the committee although, strictly speaking, within the purview of consideration of Bill 51, they are probably something that belongs within the evaluation of government assisted housing programs. There is the assured housing strategy and the various components of that, but I would submit that those things are largely outside the specific purview of this committee. These various comments are collected in this miscellaneous section.

You also have at the bottom of page 135 a statement by Pilar Anaya-Torres--she was here earlier--her statement up in Thunder Bay with regard to the 3,000 additional assisted housing units. It would appear that the recent ministerial statement has covered that one off. That also appeared in the back of the yellow Rent Review Advisory Committee report.

There are numerous comments in here with regard to provincial housing programs. Admittedly, they are outside the strict purview of rent review, but one possible way of inserting them under the act--and I will just put this forward as a suggestion--might be under section 11, to expand the powers of the minister or to put some clause in there to allow the minister to embark upon housing programs that further the objectives of Bill 51. That might be a possible way of tying in the programs, although it might be argued that it duplicates other existing ministry housing programs.

With respect, that is really all I have to say. Since a good number of members are here, I would just like to put in a little public relations plug for just half a second. As I believe some of the members are aware, we in legislative research have moved from the north wing over to the second floor of the Whitney Block. We are in room 2520 over there, and actually in a week and a half, on the mornings of October 20, 21 and 22, we are having what you could call an open house for members between nine and 10 o'clock in the morning. We will have some refreshments and members of this committee or any of your colleagues in the House are invited to stop over and see our new quarters. I now leave the floor open to any questions.

The Acting Chairman: Before entertaining questions, on behalf of the committee I will express our appreciation for an extremely thorough job of documenting everything that was presented to the committee and, as has become customary for the legislative library, an absolutely superb job in terms of providing the members with information. We appreciate it.

Mr. Richmond: Thank you very much.

The Acting-Chairman: Extremely well done.

Are there questions from members? Mr. Reville.

Mr. Reville: No, Mr. Chairman. All I was going to do was thank Mr. Richmond for his work, and you have already done that. I was trying to decide whether it was the labour of Hercules or of Job. I am not sure.

Mr. Richmond: Needless to say, the summary took many late hours by myself and our secretarial staff deserve full credit on this.

The Acting Chairman: The strength of Hercules and the patience of Job.

Mr. Jackson: Mr. Chairman, I would like to echo that because what we

do not see in front of us are the additional research assignments that we have given on an individual basis and that Mr. Richmond has provided. I know I have been particularly inquisitive and maybe even mischievous with some of the requests I have made, and he has done a tremendous job.

Since this is the fifth bill I have worked on that involved public hearings and this kind of in-depth work, I wanted to compliment Mr. Richmond on his exceptional efforts on our behalf. This rather lengthy document is only the tip of the iceberg of the work he has done. Since you are new as chairman, I thought I would like to put that on record because I know all members of the committee concur with that point. He has also been of great help during the questioning at the various public meetings. In a very nonpartisan way, he has assisted all of us with questions.

The Acting Chairman: It always shocks members that the legislative library operates in a very nonpartisan, objective way with tremendous talent.

Mr. Jackson: They are the natural survivors in the system.

Mr. Epp: Mr. Chairman, I want to add the thanks of the government members on this committee to Mr. Richmond and the legislative staff for all the work they have done. I add our thanks to those of Mr. Reville and Mr. Jackson. I will not admit, as Mr. Jackson has, that I have been mischievous in my questioning, but we have appreciated the work Mr. Richmond has done.

Mr. Jackson: I would like to clarify what I meant by "mischievous." Even though the government has deemed we should not look at regional decontrols or shelter allowances, what I meant to say was that Mr. Richmond, in his patient and generous fashion, has been able to provide me with a considerable amount of documentation. Although the committee would not look into it, he was more than willing to assist me to develop a personal understanding in that area. That is what I meant when I said it could have been deemed mischievous but it did not bother him; he was very helpful.

Mr. Richmond: We take all comers.

Ms. Caplan: The point I wanted to make is just how useful this synthesis of weeks and weeks of hearings will be to us. I think we will refer to it as we go through the bill clause by clause and we look at what the positions were and some of the rationale from either side. Not only is it well done, but also it will be useful and I personally thank you.

The Acting Chairman: That is a good point. Members might be advised that when you begin clause-by-clause, you may wish to have this document at your side.

As we are closing, I will remind members of two points. One is that the next sitting of the committee will be on Wednesday, October 15, following routine proceedings. Second, committee members may be well advised that it is normal practice and procedure of the Legislature not to continue with a bill until all amendments have been tabled with the committee. To be more particular, members have raised concerns about sections 14 and 15 of the bill, the maintenance sections. Members may wish to question whether it is appropriate to proceed with the bill unless the amendments that pertain to those sections have been tabled with the committee.

Ms. Caplan: May I suggest that we ask the minister whether he will be prepared by that point and can have the amendments ready?

The Acting Chairman: I do not want to present some sense of urgency to the committee, in that I know its agenda is first to go through an explanatory section, with the new additions. Doing that explanatory portion is not a prescribed routine and it will take a while. When you have completed that assignment, the committee may wish to be concerned that all amendments have been placed prior to a clause-by-clause examination of the bill.

Ms. Caplan: The point I was going to make is that we are going through an explanatory portion. The minister said this morning he hoped to have the information and the amendments as expeditiously as possible, and perhaps we will have some indication from him about when they will be available before we complete the explanatory section. We will see what options are available to the committee at that time.

The Acting Chairman: I appreciate that. I am directing the committee that it may want to consider that, and please do not be surprised if committee members ask that we bring a halt to it until we have all amendments before us.

Ms. Caplan: If we proceed at the rapid pace we were going through the explanatory portion yesterday, I think not only will we have the amendments from the minister but also we will all be ready for our old age retirement.

Mr. Jackson: In fact, all the amendments may come in green and red wrapping.

The Acting Chairman: You never know. Are there any other questions or comments?

Mr. Reville: Did you say you want us to slow down the process so you can get the amendments ready?

Ms. Caplan: No.

The Acting Chairman: The chair will expect to see all of these willing and smiling faces before it on Wednesday, October 15, following routine proceedings.

The committee adjourned at 3:55 p.m.

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Government
Publications

STANDING COMMITTEE ON RESOURCES DEVELOPMENT
RESIDENTIAL RENT REGULATION ACT
WEDNESDAY, OCTOBER 15, 1986



STANDING COMMITTEE ON RESOURCES DEVELOPMENT

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Bernier, L. (Kenora PC)

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Gordon, J. K. (Sudbury PC)

Morin-Strom, K. (Sault Ste. Marie NDP)

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Smith, E. J. (London South L)

Stevenson, K. R. (Durham-York PC)

Substitutions:

Jackson, C. (Burlington South PC) for Mr. Stevenson

Knight, D. S. (Halton-Burlington L) for Ms. E. J. Smith

Taylor, J. A. (Prince Edward-Lennox PC) for Mr. Gordon

Villeneuve, N. (Stormont, Dundas and Glengarry PC) for Mr. Pierce

Clerk: Decker, T.

Assistant Clerk: Manikel, T.

Staff:

Richmond, J. M., Research Officer, Legislative Research Service

Witnesses:

From the Ministry of Housing:

Curling, Hon. A., Minister of Housing (Scarborough North L)

Peters, F. H., Executive Director, Rent Review Division

Laverty, P., Director, Rent Review Policy Branch, Rent Review Division

Stratford, L. A., Senior Solicitor, Rent Review Division

From the Rent Review Advisory Committee:

Griesdorf, G.

Amaya-Torres, P.

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON RESOURCES DEVELOPMENT

Wednesday, October 15, 1986

The committee met at 4:15 p.m. in room 151.

RESIDENTIAL RENT REGULATION ACT
(continued)

Consideration of Bill 51, An Act to provide for the Regulation of Rents charged for Rental Units in Residential Complexes.

Mr. Chairman: The committee will come to order, please. For the first time in the committee, members have these little transceivers available to them. If you want one, they are available from the Hansard desk here at the front.

We are continuing with our examination of Bill 51 and going through the amendments. Before we get into that, there is a procedural matter I want to raise with the committee. The annual report of the Workers' Compensation Board is to be dealt with by this committee. I am worried about putting that off for too long, because there is a long-standing tradition and I would not like to see it devalued by putting it off till the new year. I think the problems of workers' compensation are of such significance that they should be before this committee every fall through the annual report.

Will the committee members think about that? I do not think we should set a date today until you have had a chance to think about it, to speak to your critic or minister in that area and to see what would be a convenient date, perhaps some time around the middle or the end of November. We had scheduled two three-session weeks to deal with the WCB report. Perhaps we can talk about a date tomorrow or the beginning of next week.

Mr. Gordon: I have to concur with you. I think the workers' compensation report is very important. As the Labour critic last year, I can recall making points I thought were valid and I am very interested in seeing whether those matters have been dealt with in the intervening period. I would hate to see this report put off for any lengthy time. I support the chairman, and I hope the committee will too, in picking a date that is suitable to all and getting down to it.

Mr. Chairman: Good. It causes a certain amount of anguish surrounding Bill 51, because it means interrupting the deliberations of Bill 51.

Ms. Caplan: Will that not be done by the middle of November?

Mr. Chairman: If the end is in sight, so much the better, but if it is not, we may have to interrupt it.

I understand that in my absence things went incredibly smoothly and we almost finished the first amendment to the bill. The committee was discussing the definition of economic loss the last time we met. Is there any further discussion on the definition?

Mr. Gordon: It was my understanding at our last meeting that we would have an extensive treatment of economic loss given by the ministry to the committee today. At that time, it was indicated--by myself in this case, but I think the committee would probably concur--that perhaps using an overhead and the proper types of transparencies, the subject of economic loss would be made quite clear to the committee.

As you know, this is a very important concept in this bill. It impinges on the sections that deal with the residential complex cost index and the building operating cost index, which we can perhaps explain more fully as time goes on. I would like to see this brought to the committee's attention.

I know it was Thanksgiving over the weekend and perhaps the ministry people were not working overtime, but at the same time, I think we should have the benefit of their expertise at this time.

Mr. Chairman: I was not aware that agreement had been made. Has the ministry any information in keeping with what Mr. Gordon has requested, a more detailed explanation of economic loss?

Mr. Peters: Yes. We have a presentation for the committee, as agreed to.

Mr. Chairman: Does this mean Dr. Laverty will weave his magic before the committee?

Mr. Laverty: I am afraid so.

Interjection: Oh, no.

16:20

Ms. Caplan: With the concurrence of the critic for the official opposition, if it would not inconvenience Dr. Laverty, perhaps we could table this for today and leave it to the next sitting of this committee and move on to something else. It was essential for the critic to see this and unfortunately we know he is not going to be here for the whole presentation.

Mr. Reville: How long is this going to take? How fast can you read your presentation?

Ms. Caplan: In other words, how fast does he have to read?

Mr. Reville: He was going to try to leave at 5:15 p.m.

Mr. Gordon: No. About 4:20 or 4:25 and I will be back about 5:20 or 5:30.

Ms. Caplan: Five minutes then.

Mr. Gordon: Somebody is coming to remind me. I am sure your explanation would last more than five minutes, especially with questions.

Mr. Laverty: It most assuredly will, even without questions.

Mr. Gordon: Right.

Mr. Chairman: How long, Dr. Laverty?

Mr. Lavery: The presentation will take something in the order of a half hour, without going into the questions it may engender.

Mr. Chairman: Do I hear the committee members requesting that we move on? We will stand this section down and move on to the second definition. We will pass it anyway, I suppose. Is financial loss enough different that you want to deal with it now or do you want to leave it and do it with economic loss? I hate to put committee members on the spot, but they are tough questions.

Ms. Caplan: It was my understanding that the critic is most concerned about the definition under economic loss. Unless the official opposition has some difficulty with this definition, I would like to suggest that we just proceed in order and deal with it at this time.

Mr. Chairman: Are there any problems with moving on to financial loss?

Mr. Reville: I have one problem, Mr. Chairman.

Mr. Chairman: Okay. Financial loss. Explanation please.

Mr. Lavery: A financial loss is an additional definition that was not included in the initial act. The purpose of the definition is simply to set out that a financial loss is experienced when total costs are greater than total revenues in the same time period. That is a common approach to defining a loss and it has merely been added to the bill for the sake of reference to the members for the sections dealing with financial loss in the act.

Mr. Chairman: Are there any questions?

Mr. Reville: Yes. My question is not about financial loss. That is totally understandable, but what has happened is I have forgotten the answer you gave me the last time about whether we are going to see a definition of invested equity. I cannot find my notes and I apologize, but it seems to me that question was of interest to the official opposition as well. I do not know whether the intention was to add a definition so we are all clear on what invested equity means.

Mr. Lavery: The act does refer to several components of invested equity in subsection 77(1) for the purposes of calculation of the rate of return. It is not a comprehensive definition, but it does make reference to certain principles and those principles will be further outlined in regulations under the act. There is a great deal that goes in to defining the value of the--

Mr. Reville: Is this the one that goes on for three pages?

Mr. Lavery: Oh, at least.

Mr. Reville: In the regs?

Mr. Lavery: Yes.

Mr. Reville: Are you kidding me?

Mr. Lavery: No, because essentially you have to define the value of land and the value of building in order to define the value of the entire premises and then you--

Mr. Reville: I would not think the widow ladies who came before us are going to be happy with that. I am sorry. That is not a question.

Mr. Jackson: You are not upstairs.

Mr. Jackson: It was my understanding that we were going to attempt a short definition of invested equity. As I recall the sequence of questioning, I really did not get back to invested equity, but I have several questions about it. Are we going to get a short definition and, if we are, can we then--

Mr. Reville: The reeve of Chapleau.

Mr. Chairman: Excuse me. I am being summoned to the corner for a moment.

The Acting Chairman (Mr. Reville): Mr. Jackson, will you please proceed? Pay no attention to the chairman.

Mr. Jackson: Thank you. That will be quite easy.

As I recall, Dr. Laverty, when you gave your first short definition of invested equity, you made reference to the purchase price of the building based on those calculations. I have several questions with respect to refining that if you are going to include land transfer tax, legal costs, etc. I do not want to lead you but it seems somewhat appropriate if that is the cost of acquisition, much in the same way as when you buy a car, you do not get a loan for the amount of the car; you get a loan for the car, tax and plates. That is generally the practice if you are buying something with a minimum down payment.

Mr. Laverty: Let me give you a two-phase answer. In the presentation on section 77, we will go into further detail as to the definition of equity that we will be using under section 77 for the purposes of calculation. Over and above that, there are a number of matters dealt with in regulation. It was not my understanding, although it may be the committee's understanding, that an additional presentation be made on the substance of those matters. Some of the things that you have referred to in terms of land transfer tax and so on are considered in the draft regulations that we have to this point. In fact, there is a fairly extensive listing of the costs that would be associated with development.

Mr. Jackson: I guess I should be asking the chair whether we can seek consensus as to whether we should have a short definition of invested equity--

The Acting Chairman: Yes.

Mr. Jackson: --and at the same time perhaps ask for a more detailed presentation when we get to section 77. We do not need the full definition if the secret to understanding it is coming in section 77. It strikes me that a very significant element of the treatment of post-1975 buildings under this bill will be the definition and treatment of base cost. That will work to the advantage or disadvantage of one or other group depending on how that formula works. It is most important that we understand it. As legislators, we may wish to enshrine it in legislation as opposed to leaving it in regulations.

Perhaps the time to seek the answer to that question is when we get to section 77. I would like a clear consensus from the committee at this point, if I can ask for it, as to whether we should have a short definition if such an animal can be created.

Ms. Caplan: My concern is the question of whether such an animal can be created, given that we have heard from the ministry staff that the proposed regulation is going to be about three pages long. Putting it into legislation could be somewhat misleading as to what the ultimate result will be. I suggest that we deal with this when we go through section 77 as opposed to having that debate now. Perhaps the ministry staff can consider your request as to feasibility and perhaps at the end of that time you can make your case.

The Acting Chairman: There does not appear to be a consensus. There is one other opportunity that might provide us with the information we are seeking, and that is the regulations we have been promised a number of times. If we see the regulations, we can ask about them at that time.

Dr. Laverty, do you think there is a more appropriate time than others to explain all the intricacies of invested equity?

16:30

Mr. Laverty: There are several points in time at which one might want such definition. When we get to sections 77 and 88, two sections of the act that relate to the definition of equity, we may want to explore further what the appropriate definition or definitions of equity are for the purposes of those two sections. It is a matter for the committee to indicate at what time it would be most useful to have a presentation. If you are talking about a presentation as full as Mr. Jackson is suggesting, I do not think I will be prepared to go through it today. I think that is realized.

The Acting Chairman: Is it appropriate to do it when you do your presentation on economic loss?

Mr. Laverty: The presentation on economic loss will go some way towards clarifying the calculations in section 77, but not as far as Mr. Jackson's earlier question suggests in terms of defining a comprehensive list of components of what would be contained in the definition.

Mr. Jackson: I do not want to mislead Mr. Laverty by suggesting that I want in the definition all the component parts. I have sufficient faith in the ministry wordsmiths of this document to come up with something short, but I am uncomfortable with everybody seeking consensus.

Perhaps the best route is to ask the minister. Do you have any objection to having your staff prepare a short definition to be tabled with this committee? It would be helpful. If it is not workable, that is fine, but I sense that everybody is waiting for someone to make a decision and it is not worth having a vote over. Is it possible simply to ask legal counsel, Mr. Laverty or whoever to prepare a short definition?

Hon. Mr. Curling: The thrust of your request is to facilitate understanding if you get a short definition of that. I personally do not see a problem with that, but the understanding would be subject to detailed explanation as we get to sections 77 and 88. I know we want to have the best legislation.

I will ask Mr. Laverty to look at some type of precise definition of the subject. It is quite possible it may not entirely define it, but you will have something for you to move on. If it gets too complex, we will hold it for section 77 or section 88.

Mr. Jackson: I do not want you to hold up the process. It is helpful to the bill that we have an explanation of what is meant by it. We will seek the fine-tuning of it within the regulations and we will get into the clarification of it when we get to section 77. I just feel it is appropriate at this point that we have identified that it would be helpful to the bill if it were included. Therefore, I have asked--and you have agreed, I understand--to prepare something and we will run that up the flagpole when it is ready.

Hon. Mr. Curling: Yes.

Mr. Jackson: Terrific. That is a lot better than if we did not have a consensus.

The Acting Chairman: Let us move along to the definition of rental unit.

Mr. Laverty: The definitions of rental unit and of residential complex have both been amended. To step backward to the initial draft of the bill, in this legislation, as opposed to the Residential Tenancies Act, we have added to the definition of rental unit, sites on which a home is a permanent structure in addition to sites for mobile homes, which were covered under the Residential Tenancies Act. That extension, which is in the initial draft of Bill 51, was put in largely to cover a case that occurs in certain parts of northern Ontario where the land is rented to an individual but the building is owned. In our view, that is analogous to the situation where a mobile home site is rented, but the mobile home itself is owned.

In the amendment we have added some wording so that the site for a single-family dwelling is a permanent structure. The reason for the reference to single-family dwelling is that we wished to cover the potential problem cases in northern Ontario. At the same time, we did not think it would be appropriate under this act to regulate the relationship in urban areas between an individual who owns land and rents it to a landlord who has a high-rise building on it. In our view, that is a commercial lease rather than a residential lease, although the rent of the individual units would be covered by the act.

The purpose of the amendment is to ensure that while we cover the single-family sites in northern Ontario, we do not bring into the ambit of rent review the commercial leases of land to landlords in the system of regulation under the act.

The Acting Chairman: Does the definition under residential complex cover the problem that was drawn to our attention by the Metropolitan Toronto Association for the Mentally Retarded? Mr. Peters is shaking his head.

Mr. Peters: As I recall, that problem concerned a lease arrangement between the association and a landlord which, subject to correction by counsel, was essentially a head lease of a commercial nature, but someone had rented a property to be run as a group home. Ms. Stratford may want to offer some comment on it, but that was my recollection of the presentation.

The Acting Chairman: Let the record show the solicitor is saying, "That is right."

Ms. Stratford: This definition does not address that issue. There was no question that the situation involving the association for the mentally

retarded already was a rental unit. The problem may have been that the rental unit was not covered because of other provisions.

The Acting Chairman: Those provisions are not in this act. It has to do with the nature of the agreement that was struck between the owner of the property and the association.

Ms. Stratford: That seems to be the case.

The Acting Chairman: In the absence of the facts, we do not know what that agreement was. To follow up on that, the exemptions in subsection 4(1) are not the problem for the association for the mentally retarded, or are they, in your view?

Ms. Stratford: It is arguable that they might be a problem, given that the ultimate use of the property does seem to fall within section 4. However, there are other arguments about the head lease, and subsection 2(3) of the bill could be a problem for that.

The Acting Chairman: We may have to discuss this further when we get there. I am sorry to have sent us off on a small wild goose chase. Anything further on rental unit or residential complex? We can go to subsection 2(3) on long-term leases.

Mr. Lavery: Subsection 2(3) has two amendments. In the initial draft, the subsection deals with buildings that were exempt from the Residential Tenancies Act because they were post-1975 buildings. The original draft says that if the landlord and tenant had agreed before May 1, 1985, to a lease relationship extending for a multi-year period, it would be exempt from this act.

16:40

The amendments are twofold. First, the initial draft referred to May 1, 1985. This has been changed to May 2. This is consistent with the 90-day notice period prior to August 1, 1985, which in many sections of this legislation starts off the new system of rent review.

The other change is a reference to clause 134(1)(e) of the Residential Tenancies Act which would add units that were exempt prior to August 1 by reason of their renting for more than \$750 a month. The Rent Review Advisory Committee agreement, page 17, number 3, dealt with any multi-year lease agreement between tenants and landlords respecting units exempt from rent review prior to August 1, 1985, that they be honoured, notwithstanding the provisions of this or any other act.

It was correctly pointed out to us that the wording of that RRAC agreement would apply equally to those that were exempt by reason of being \$750 and more and to units that were post-1975. To bring it into conformity with the RRAC agreement, we are advancing that part of the amendment.

The Acting Chairman: How do you like that? Any questions? That takes us down to clause 4(1)(a): suite hotel.

Mr. Lavery: Not quite.

The Acting Chairman: No, it does not. Sorry.

Mr. Laverty: There is an amendment to subsection 2(3a) which has been inserted into this act. This insertion is in the light of the exemption from the act in subsection 2(3) being more extensive than originally intended.

We are aware of a couple of cases in Ontario where senior citizens are renting on a long-term lease, typically 21 years, by paying a lump sum payment up front and then a variable payment which increases over time, which is meant to cover the operating costs involved in the lease arrangement.

It might be argued that, given subsection 2(3), these cases entail long-term leases and they should be exempted from the entire act. However, this was not the initial intention of subsection 2(3) and therefore subsection 2(3a) clarifies that and includes under the ambit of the act those long-term leases of 10 years or more where there is a provision for a payment by the tenant on a periodic basis of amounts in addition to the amount originally put up front.

This is to ensure that those kinds of leases would not be exempt from the act unless, of course, they were exempt under one of the provisions of section 4.

The Acting Chairman: Thank you, Dr. Laverty. One wonders whatever that might have meant.

Mr. Jackson: If it is the same subsection I think we are talking about--

The Acting Chairman: It is subsection 2(3a).

Mr. Jackson: --is there any current government program with Ontario housing that follows that constructive payment pattern?

The Acting Chairman: Of whom are you asking that?

Mr. Jackson: It is wide open.

The Acting Chairman: Does anyone have an answer to that? Mr. Peters looks alert.

Mr. Peters: Not that I am aware of. There is no prepayment of a lease, that I am aware of, in the portfolio of the Ontario Housing Corp. nor am I aware that extends to any of the new social housing programs.

Mr. Jackson: I never heard of it before. That is what is shocking me.

The Acting Chairman: I guess your question is, under what circumstances would these kinds of arrangements occur.

Mr. Jackson: I understand there are some problems with high tenant equity and being unable to get into Ontario housing.

The Acting Chairman: That is not relative to this.

Mr. Jackson: I know it is not. That is why I asked if there was any OHC plan, because I know it was one of the options being discussed earlier. I wondered where there is an application of this. I have never heard of it.

The Acting Chairman: The question is, where would this apply. Give us an example.

Mr. Lavery: Yes. The one case we are aware of which might qualify under this term would be the lease arrangements in the Hamilton area involving St. Elizabeth Village, which are 21-year leases and involve a lump sum payment up front and then an annual amount which will increase over time. That was not what was originally contemplated in subsection 2(3). In subsection 2(3a) we are saying that situation would not be exempt from the act unless an argument could be made under section 4 that it qualified for an exemption on those grounds.

The Acting Chairman: Does that help, Mr. Jackson?

Mr. Jackson: I am not quite sure if they are exempted or not. Sorry, my mind is not following it.

Mr. Lavery: It would not be exempt under section 2. It would be covered by the act in so far as section 2 is concerned. In the particular case there might be an argument that the landlord might put forward that they would qualify for an exemption under section 4. Without an actual hearing of that evidence, I would not be prepared to state categorically whether they were or were not covered.

Mr. Jackson: In other words, it is the test of whether it is deemed in but there is an escape route and the test will be when it is appealed before the hearings officer. Is that basically what I am hearing?

The Acting Chairman: I am not going to interpret this for you.

Mr. Jackson: I am not a lawyer.

The Acting Chairman: You should ask Dr. Lavery whether that is correct.

Mr. Jackson: I was seeking the chair's guidance when I looked at you quizzically. Either it is in or it is out. That is what I am trying to understand.

Mr. Lavery: Yes, I realize. In this case there are at least two arguments which conceivably could be put forward by the landlord. I do not know whether they would have validity or not. It is conceivable they could claim that there was some kind of relationship based on the project qualifying as a home for the aged. It is conceivable, given the particular ownership, they could claim an exemption as being related to a religious institution. Those are matters of fact on which I do not think I would want to offer an opinion and at this time are conjectural. Only by a full examination of the evidence would one be in a position to determine whether or not that project could gain an exemption under section 4.

What we are saying is that it should not be exempt in the process mentioned under section 2.

Mr. Jackson: It is not exempt; that is basically what I am looking for.

Mr. Chairman: That deals with subsection 2(3a). Any further questions on that? On to clause 4(1)(a) and the deletion of suite hotel.

Mr. Lavery: This is the amendment to clause 4(1)(a). Suite hotel is being deleted so that it can be placed in a separate subsection 4(1a). The

only difference in those two is in terms of the bracketing. Subsection 4(1a), the new subsection, is being placed in the bill because the system of exemption for suite hotels is going to be different than it is in the case of all other exemptions.

16:50

In the RRAC agreement, page 19, number 6--

Mr. Bernier: Mr. Chairman, may I interrupt? Are you on clause 4(1)(a) now?

Mr. Laverty: Page 5, clause 4(1)(a), and it is related, as I indicated, to--

Mr. Chairman: Excuse me, Mr. Laverty. Mr. Bernier was not here before. Those are the changes.

Mr. Bernier: Are you just dealing with the changes?

Mr. Chairman: Yes.

Mr. Bernier: Are we going to do clause-by-clause after that?

Mr. Chairman: Yes.

Mr. Laverty: The new subsection 4(1a) reflects the RRAC agreement, page 19, number 6, which reads: "Apartment hotels or other similar accommodation may make application to the ministry on the basis of history of use of the building or the units for exemption; however, schemes to remove rent-controlled units of buildings from the market will not be legitimized."

The process, as considered by the RRAC, is that in order to gain an exemption on the basis of a building being a suite hotel, a specific application would have to be made to the minister. That would be dealt with under subsection 13(3), so there would have to be an explicit decision made by the ministry to exempt the building on the basis of its being a suite hotel. All the other exemptions in section 4 do not require an application to the minister, and that is to avoid situations in which we would have to consider for exemption, for example, the Royal York Hotel and so on.

Mr. Reville: Am I correct in assuming that the situation contemplated is that which may apply at addresses like 200 Jamieson, the Toronto Apartment Buildings Co. suite hotels situation?

Mr. Laverty: No. The suite hotels regulations which are in the process of being drafted will have to conform to the supplementary agreement of the RRAC of May 28, 1986. There are six conditions or six--

Mr. Reville: That will be in the regulations, will it?

Mr. Laverty: Yes. There will be an extensive regulation. Number 3 in that agreement is that pre-1976 buildings must come within the definition as of January 1, 1976. In the case of the Toronto Apartment Buildings suite hotels, those conversions took place after January 1, 1976, and do not qualify for the exemption, according to the system that has been recommended to us by the advisory committee.

Mr. Reville: An interesting thing occurred while you were away, Mr. Chairman, and that was--

Mr. Chairman: That is hard to believe.

Mr. Reville: Notwithstanding your absence, it occurred. The committee adopted a motion that members of the RRAC would be requested to meet here to assist in any of the explanations. It seems this is one of the cases in which we need their advice. I have seen some of them here.

Mr. Chairman: They have standing, as it were.

Mr. Reville: They have standing, interestingly enough.

Mr. Chairman: Yes.

Mr. Jackson: It did not require you to break the vote.

Mr. Reville: Perhaps we could at this point request the appropriate members of the RRAC to approach the bench.

Mr. Chairman: Yes.

Mr. Laverty: Joining me are Gary Griesdorf of the landlord side and Pilar Amaya-Torres of the tenant caucus.

Mr. Reville: Mr. Laverty has made reference to a supplementary agreement of May 1986, which has six subagreements therein that relate to this matter. Can you elucidate? First, I would like you to elucidate how many of these supplementary agreements there might be.

Mr. Griesdorf: In general terms, we felt our job did not stop on April 18 with the accord. It was also to elaborate further on some of the recommendations that were made. This is one of the areas in which some discussions have taken place, not only in May 1986 but also in September and October 1986. The idea is to draft or make recommendations to the minister with respect to regulations and guidelines affecting suite hotels, so it is not a matter of either one or two; there may be 100.

The idea is that we are trying to do a job here to make recommendations so that the ministry can continue. In this particular matter the concept was that units that were changed in their nature from what is called a regular unfurnished suite and subject to rent review in July 1975 would continue--sorry, they existed at that time as rental accommodation subject to the previous act--to be subject to the previous act, and that any changes in their nature would have to be brought before either the rent review committee or the rent adviser, whatever the methods are. We are using the term "minister," are we not?

Mr. Reville: "Minister" would be the understanding.

Mr. Griesdorf: They would be brought before the minister for consideration, but they would still be subject to rent control.

What we further tried to establish, and what I think Mr. Laverty was referring to, was the nature of units that may have been suite hotel units in buildings where they were not subject to rent review--in other words, they were built after 1976--and we wanted to have regulations regarding their use.

I might also add that there were existing suite-hotel-type units prior to July 1975 and we wanted to make sure we covered their use as well.

Mr. Reville: In a general sense, it would be very helpful to this committee if the ministry were to advise us how many subjects the Rent Review Advisory Committee is still pursuing so that--

Mr. Chairman: Before we go on, can I assume as we get into clause-by-clause that we will not be dealing with a clause for which you are still contemplating an amendment, for example? That would be outrageous, surely.

Mr. Bernier: It may well happen, the way it is going now.

Mr. Griesdorf: I do not mean to speak for the ministry, but as part of a group that is advising the ministry, we have come, even in our regulations discussion, to where we have then recommended that there be an amendment to the bill and some of those amendments have come through. You cannot deal just with the bill and then draft the regulations. Sometimes we have gone into the detail of how it will really work and then we have said perhaps the bill itself needs amendment.

Mr. Chairman: We understand that.

Mr. Griesdorf: We have recommended some amendments to the bill.

Ms. Caplan: The point was made here by several members of RRAC that the consultations of the RRAC committee were ongoing, that they were participating in the drafting of recommendations to the minister regarding regulations and so forth, and they said it was their goal that this bill most accurately reflect the understanding of the accord of April 18, and that through the summer they had been clarifying it on an ongoing basis. They are continuing to do that.

17:00

As well, there was general agreement from tenant representatives, landlord representatives and the members of this committee that the ongoing consultation was beneficial and of great assistance to this committee in clarifying some of the points members of the committee had questioned.

Mr. Reville: Clarification is one thing, but when are we ever going to get a bill that is the set piece we can think about? Is it going to continue to grow?

Ms. Caplan: I point out that we are not yet doing clause-by-clause and I would suggest the time for that is when we are ready to go. We have been encouraged today to bring forward as much clarification as possible and I think all members of the committee would support that.

Mr. Chairman: Yes, Ms. Caplan. What I am expressing is that I would really feel aggrieved if we get into the clause-by-clause debate, which is a major task, start working agonizingly through the bill, and then have amendments brought in after we have gone through a clause. I think that would be unfair to the committee. It would undermine the work of the committee, and I suspect we would find that just plain unacceptable.

Mr. Jackson: Mr. Chairman, you did raise that question and I would

like Hansard to record that Ms. Amaya-Torres nodded in agreement that such a situation could in fact occur. Now, if she disagrees with it, that is fine, but I think Hansard should record that fact and it should be underscored at this point that it is somewhat unhealthy to have parallel processes going on which may or may not merge and about which we may or may not reach a consensus.

Therefore, I would ask the chair if we could pursue Mr. Reville's question, which was: "How many issues in the bill are still actively under consideration by the Rent Review Advisory Committee?" I do not want to proceed until we get a clear understanding about this.

Mr. Peters: Mr. Chairman, I might offer a point of clarification. When Bill 51 was introduced, the commitment, based on subsequent discussions by members of RRAC, was to bring forward amendments to fine-tune the legislation so it fully reflected the content and intent of the RRAC agreement presented to the minister in April.

The bill currently before the committee is this fine-tuning. As was indicated previously by Mr. Laverty, RRAC continues to meet to discuss such things as the regulations that pertain to a particular section. I believe the minister offered the observation that he was awaiting the report from RRAC on the maintenance committee, the Residential Rental Standards Board.

At this point, I am not aware of any amendments to be brought forward with respect to the bill that is currently before the committee. The intent was to bring forward and present to the committee the bill as amended by agreement by RRAC.

One may have to admit the possibility that an amendment may come forward. I am simply suggesting that I am not aware of any that are being developed to be brought forward. Consequently, the bill before you at this point represents the consensus reached by RRAC, although as I mentioned it is still continuing to meet to talk about the regulations and the guidelines because collectively they felt--and that view was shared by the government--that the consultation process will continue to ensure that the regulations reflect the agreement and the guidelines.

Mr. Jackson: I do not think it is our place to be second-guessing the process set up by the minister. I think it is our place to ensure that when the House leaders agree we will deal with the bill in a certain manner, we have access to all the information that is going into the construction of the bill and the subsequent regulations, especially when we went to the public input process.

We went out for public input, and it seems somehow inappropriate that we cannot get the two together in a way more meaningful and helpful to the objectives of this committee in getting a bill before the House. That is the point I think Mr. Reville is stressing, that the chairman may be stressing and that I myself am trying to stress.

I would like to hear from the Rent Review Advisory Committee members about what kinds of issues are still outstanding. Questions have come out of a point raised in subsection 4(1a) that we were not previously advised of. I understand the difference between fine-tuning regulations and amendments, but how broadly is this process going on, how many subcommittees are operating and how extensively and when will we have the benefit of that?

There is no need for us to sit here and debate ad infinitum certain points if the RRAC can come forward and make presentations about the clarity and tell us that several weeks of analysis on any given subject has brought them to certain conclusions. Why should we be in the dark, is another way of putting it.

Mr. Chairman: I happen to agree with you. As a matter of fact, I was very nervous from the beginning about having public hearings on a bill that was going to be changed 100 times through amendments. I think it is important that the committee is dealing with what is going to be the final product. I am nervous about it as well. Can the members of that committee respond to Mr. Jackson's query about the major issues that are still being dealt with?

Ms. Amaya-Torres: The major issues now are maintenance and chronically depressed rents, and I suggest that if, when a clause is being discussed, the staff is aware of any discussions about that, it could raise that at the time so that you do not need to discuss it in great detail.

Mr. Jackson: You sat through the questioning we had with respect to the landlords' equity position. Are you in concurrence in that whole area? Are you all in agreement on the component parts of that area?

Ms. Amaya-Torres: Yes.

Mr. Jackson: You have finished with that, have given all that data to the ministry, are satisfied with it and have basically signed off?

Mr. Griesdorf: Not necessarily. What we have done is give that information to the ministry, which is drafting the regulations. We have yet to see the extensive list of the items to create that definition. If you are talking about the process, yes, we are moving along on that process quite satisfactorily. As with every one of these of amendments, sometimes we also have seen some flaws in some of the wording. You may want to address some of these things clause by clause.

The nature of the question--even on this amendment--may be, does it pertain to the whole complex or does it pertain to the transient living accommodation in the complex. For instance, if a complex is a 200-unit entity but 100 units are used for transient accommodation, are you talking about the 200 units or are you talking about the 100 units?

These are the type of questions we are still asking to make sure that the definition is properly worded, that the clause is properly worded or that it can be adequately handled in regulation. We are asking these questions of the ministry and it is debating the answers.

Mr. Jackson: This is intriguing me. I do not want to second-guess the process. I want to understand the content, how you arrived at it and whether that presentation had unanimity or not. What you are telling me is that not all subject areas were put on the table for you to dissect and then reconstruct.

Mr. Griesdorf: Most of the items were put on the table for us to dissect. You asked, are we 100 per cent signed off? We, like yourselves, would like that opportunity to look at it to say, "Does it really cover everything we want it to cover"?

Sometimes we are in complete agreement--in our case, the landlords with

the tenants--and sometimes we find the wording from the ministry may be a little vague, so we make suggestions on changes in wording.

17:10

Mr. Jackson: Are you saying the process is that they will come back to you with the regulations, for example on invested equity, and ask you to look at them one final time?

Mr. Griesdorf: That is correct. That is our understanding.

Mr. Jackson: You have not seen the final draft of the regs on invested equity.

Mr. Griesdorf: With respect to that matter, it is about a week and a half old. I saw the first draft and there was more input in the past 10 days. Therefore, we expect to see the next one next week, let us say, in which case we hope we can be satisfied with its conclusion.

Mr. Jackson: Now I understand why you were hesitant on the sign-off concept.

Mr. Griesdorf: We were worried that the sign-off was as of a given time.

Mr. Jackson: I understand exactly what is being conveyed there.

Mr. Peters: In terms of the process, as I mentioned previously, I am not aware of any further amendments to be brought forward to the bill that is currently before the members of the committee.

In terms of the process for regulations, various subcommittees of the Rent Review Advisory Committee continue and will continue to meet to develop, with the assistance of the ministry, the appropriate regulations covering certain sections of the proposed bill. That process usually results in a draft regulation or part of a draft regulation being prepared, circulated to members of that subcommittee for review, and then leads generally to another meeting where changes may or may not be made to it. That process will continue.

I believe Mr. Reville offered the observation that there were other agreements, which implied that there is a subordinate RRAC report. It is important to note that what RRAC is doing is continuing to develop the regulations; it is not going through a process of adjudicating differences. It is saying: "This is what we agreed to, and that is in section X or Y of the act. Now let us turn our attention to the regulation that governs the operation of that section." Quite frankly, that is a tedious process, but it is one based on full consultation with members of RRAC. I want to make that process point clear for the committee.

Mr. Jackson: That still does not relieve me of my concern with respect to how we are going to merge these two processes to come up with the bill so that, as legislators, we have the benefit of all that input, or we are not continually referring items to some future meeting when we will receive a more detailed presentation. It begs the question, "Are we really ready to proceed at this time if we have two processes in tandem?" I would also like to request a copy of the subcommittees of RRAC and their membership and, if at all possible, the sections of the bill they are dealing with. It would assist this committee when asking questions to know whether the two RRAC reps for a given day have a stronger or weaker foundation on that given clause.

Mr. Chairman: Are you asking for this on a clause-by-clause basis?

Mr. Jackson: It does not have to be as detailed as that. I know certain subcommittees dealt with four or five substantive issues. We will be able to track which clauses they are, but it is basically to advise us of which representatives on RRAC dealt with what issues within the bill. If they are being involved in consultation with respect to regs, we would like to be able to consult with them, either during the hearings or privately. We need that information to do so; that is why I have requested it.

Mr. Chairman: I see nothing wrong with the request. Can that be provided, Mr. Laverty?

Mr. Laverty: In terms of the regulations committee, there may be one small problem and that is that the membership has some variability depending on exactly what issues are being discussed. As you may appreciate, the regulations touch on virtually all areas of the act and not all members are equally interested in all areas.

Mr. Jackson: But we are supposed to be interested in all areas. Right?

Mr. Laverty: The membership of the regulations committee has some flexibility. There are some people who have been formally appointed to it. However, the membership has frequent substitutions, much like this committee, and that being the case we have no problem providing the members to you. In the case of the regulations committee, it may not be as revealing as you may expect.

The other major committees that are ongoing right now are the committee on chronically depressed rents, the committee dealing with maintenance and the committee dealing with education. Obviously, chronically depressed rents deals with section 88, maintenance deals with sections 14 and 15, and education takes off essentially from section 11, which gives general power to the ministry to provide information and take an active role in ensuring that landlords and tenants are aware of their benefits. The regulations committee is touching on a whole series of areas. We can give you the formal members of all the subcommittees.

Ms. Caplan: I have some difficulty understanding what the concern is. As I understand the process--and I would ask the members of the Rent Review Advisory Committee who are here to see whether my understanding is correct--the bill we have before us and the amendments that have been proposed by the minister are to reflect accurately the accord that was reached on April 18. Is that correct?

Mr. Griesdorf: With the exception of areas that have already been identified to the committee, that is substantially correct.

Ms. Caplan: When we get to those areas, we will have members from both the tenant and landlord sides of RRAC who will alert us at that point if there is additional fine-tuning required or what the status is of any ongoing discussions should the members have any question on that. That is the purpose for your being here.

Mr. Griesdorf: That is correct. Of course, that would depend on the speed with which you get to the clause-by-clause stage. We are trying to have the appropriate people here who can deal with a particular issue.

Ms. Caplan: But there is no suggestion that there are any amendments in the works which would substantially change the thrust of Bill 51 as it is before us today?

Ms. Amaya-Torres: Not to my knowledge, no.

Ms. Caplan: Thank you.

Mr. Chairman: Let us make it clear though; my understanding was that what RRAC is doing now means there could well be further amendments to the bill.

Ms. Caplan: I think what I have understood, and let me just state it again--

Mr. Chairman: Take the chronically depressed and the maintenance sections, for example.

Ms. Caplan: There we are talking about perhaps wording changes to fine-tune, but the time to deal with that is when we get to those sections. In the meantime, we are stuck here debating what might be and we are not even anywhere close to the clause-by-clause discussion. I hope that as we reach those sections we will see where they are and if a problem arises we will look at it at that time.

Ms. Amaya-Torres: Chronically depressed and maintenance are still areas where there is contention. I would like to leave those separate from the rest. As far as I am aware, we are not contemplating any amendments to anything else besides chronically depressed and maintenance, but there is always a possibility that we will discover something we have previously been unaware of. In that case, we would like to come forth with a new recommendation.

Mr. Cordiano: The fact is it was the motion put before this committee by, I believe, the Conservative members that prompted having members of RRAC before us to deal with these kinds of uncertainties that might arise concerning, as I recall, the maintenance board and the chronically depressed rents, which were areas identified at the time; identified to the effect that they were going to be looked at very carefully by RRAC and there was a continuing process by members of RRAC to come up with a consensus with regard to the maintenance board and chronically depressed rents.

17:20

I believe that is what prompted the motion by the Conservative party, which was agreed to by all members of this committee at the time, so that we could get clarification from members of RRAC on where they were heading. Those were two identifiable areas at the time. There was some contention, as Ms. Amaya-Torres said, and, in fact, further clarification was needed on that. A consensus had not been reached at the time and they are continuing to work on that.

Mr. Chairman: Can we move on and continue our attempts to clarify some of the amendments? Is there anything further on subsection 4(1a) with respect to the suite hotel question?

The exemption before subsection 4(1a): "Exemption not automatic but minister can order that act does not apply to a suite hotel under section 13." Is there anything on that?

Mr. Lavery: I believe the substance of that amendment has been discussed in covering the previous amendment.

Mr. Jackson: What did you just quote?

Mr. Chairman: There is clause 4(1)(a) and there is subsection 4(1a). Got it?

Mr. Jackson: Okay. I did not see the little stick in the columns.

Mr. Chairman: Next is the proposed amendment to subsection 5(1), notice of rent increase, inserting a reference to maximum rent.

Mr. Lavery: As the members are aware, this bill introduces a concept of maximum rent. Concern has been expressed regarding tenants' awareness that the actual rent being charged to a tenant might be below the maximum rent. The tenant should be so advised and, in the case of section 5, he should be advised at the time he receives the notice of rent increase from the landlord that the requested rent is in fact below the maximum rent for that unit, to improve the information that the tenant or the consumer has with regard to the rent on his unit.

Mr. Chairman: The amendment to clause 13(3)(c) states, "Agreements resulting from coercion--delete reference to landlord."

Mr. Lavery: The cross-reference here is to subsection 94(4) in the act which relates to agreements between landlords and tenants for the provision of extra services--parking spaces being explicitly identified in subsection 94(4)--so that this, in large part, deals with agreements for additional parking spaces or for fewer parking spaces.

The initial draft of the act referred only to landlord coercion and certain landlords took some objection to the fact that they were singled out as potential coercers. We wished to refer simply to coercion whether it be on the part of the landlord or the tenant.

Mr. Chairman: Excuse me. We must break for a quorum call. We will come back in five to 10 minutes.

The committee recessed at 5:24 p.m.

17:41

Mr. Chairman: The committee will come to order. When we adjourned for a quorum call, we were dealing with the question of agreements resulting from coercion and Mr. Lavery had just finished page 10. He had just finished giving an explanation. Are there any questions on that? That is clause 13(3)(c).

Mr. Lavery: I have finished my comments, Mr. Chairman.

Mr. Chairman: They were obviously very clear. If there are no further questions on clause 13(3)(c), we will move on to clauses 14(2)(a), (b) and (d), dealing with the maintenance standards board and the insertion of "minimum" and "dialogue".

Mr. Lavery: The amendments are to make the bill more closely conform with the Rent Review Advisory Committee report. The insertion of the

word "minimum" in clauses 14(2)(a) and (b) before the word "standards" reflects the wording in the RRAC agreement of April 18 on page 7, number 1, which refers to provincial minimum standards.

The change in clause 14(2)(d) is to substitute the word "dialogue" for the wording in the initial draft of the act, which called for "communication and consultation." That is inserted to more closely correspond to the RRAC report, page 15, recommendation 3, which refers to the importance of meaningful dialogue between landlords and tenants on capital expenditure programs. The word "dialogue" tracks more carefully the RRAC agreement than did the phrase "communication and consultation."

Mr. Chairman: Are there any questions on section 14?

Mr. Gordon: I take it you are bringing in the regulations concerning section 14 as well as an in-depth description of what minimum maintenance standards are, how they will be enforced and how you will establish the dialogue between landlords and tenants. Is that correct? Am I talking about the same section?

Mr. Peters: I believe at the last meeting of the committee the minister indicated he had received a report from RRAC on the Residential Rental Standards Board. I think he also offered the observation that he would be bringing in an amendment to those sections which would reflect the consensus reached by the landlords and tenants. I assume that once the report has been reviewed and the appropriate amendment drafted, it will be tabled before the committee.

Mr. Gordon: How many more amendments beyond the number we have now will we see? You are talking about one amendment. Is it fair to say we have 100 amendments now?

Mr. Peters: It is accurate to say 94 amendments by the government.

Mr. Gordon: How many more we will see, besides the ones that Mr. Reville and I plan to propose?

Mr. Peters: That issue was discussed previously. I am not aware of any other amendments to be brought forward except the one I just referenced.

Mr. Morin-Strom: I am new here, but if you are trying to reflect the RRAC agreement, why is the word "meaningful" not inserted along with the word "dialogue"? I thought the RRAC agreement was, as you stated, "meaningful dialogue."

Mr. Laverty: Presumably if we are trying to encourage dialogue, it should be meaningful dialogue. It is very difficult to conceive of meaningless dialogue transpiring on this issue.

Interjection: How long have you been around here?

Mr. Chairman: Mr. Laverty is implying that it is a given.

Mr. Morin-Strom: I would not say that all dialogue is meaningful. Just instituting a provision that people are going to talk does not mean anything meaningful at all will come out of it.

Mr. Chairman: Welcome to the committee.

Mr. Reville: You have picked it up very quickly.

Mr. Chairman: You will fit right into this committee.

Can we move on to subsections 15(3) and 15(4) on page 11?

Mr. Laverty: In subsections 15(3) and 15(4) there is insertion of references to "substantial compliance." This is being brought forward to reflect more accurately the reference on page 7 of the RRAC report, recommendation 3, which deals with substantial violations. This is the reason the references to "substantial" have been made in subsections 15(3) and 15(4).

Mr. Chairman: Why is it the council rather than the maintenance bylaw inspector or whoever is going to be investigating maintenance standards?

Mr. Laverty: My understanding is that it will be a function the municipality can delegate to staff and that in a number of municipalities it is done that way. In some smaller municipalities, council will sometimes undertake to review the orders with regard to maintenance.

Mr. Gordon: How many municipalities across this province, small and large, currently have the bylaws that relate to these kinds of matters, or even the people on staff to carry out the kinds of things this bill is beginning to put on their backs? I would like to know that.

Mr. Laverty: The answer to the first question is that in section 14 as drafted we are referring to provincial maintenance standards that will be established and therefore we would not be referring to the bylaws of a particular municipality.

Mr. Gordon: I understand what you are saying.

Mr. Laverty: With regard to staff, I do not think I can respond to that at this in time, unless Mr. Peters has knowledge of it.

Mr. Peters: I think at this point 225 municipalities capture 80 per cent of the Ontario population.

17:50

Mr. Gordon: Perhaps I am not making myself sufficiently clear. Metro Toronto has its bylaws and rules and regulations that cover minimum standards in this city; if you are a tenant with problem, you call your alderman. What is the situation in most of the other municipalities in this province, leaving aside the major regional municipalities and/or the very large municipalities?

Mr. Peters: Obviously there are some municipalities that do not have a minimum standards bylaw. The point I was addressing was that there are 225 municipalities that do have such bylaws in place, and those municipalities account for pretty well 80 per cent of the population.

Mr. Gordon: What are we going to be doing for the municipalities that represent the other 20 per cent of the population?

Mr. Peters: The provision that was identified was, obviously, that you would have to have some alternative form of inspection on a comparable standard. With all respect, instead of pursuing the discussion, it might be more prudent to wait until the appropriate amendment is introduced which will

outline the process Rent Review Advisory Committee has recommended. Obviously, it is an issue that has to be addressed.

Mr. Gordon: That is fine. I am just interested in learning more.

The Acting Chairman (Mr. Reville): We are learning more every day. Sometimes what we learn is that we are not going to find out.

Mr. Gordon: It is a revelation.

Hon. Mr. Curling: Will the chairman say that when we talk about bringing forward sections 14 and 15?

The Acting Chairman: We are talking about substantial compliance now and I suppose that is substantial compliance.

Mr. Gordon: What is substantial?

The Acting Chairman: He says he is bringing it forward.

Mr. Gordon: That is substantial.

The Acting Chairman: That would take us down to subsections 15(6) and 15(7), respecting stay and forfeit provisions.

Mr. Laverty: Subsections 15(6) and 15(7) are also amendments that are being brought forward to reflect recommendation 3 on page 7 of the RRAC agreement, which states: "When a landlord is in substantial violation of a substantial maintenance board order, including the deadline, he is subject to a recoverable stay of rent increases, and if the violation continues for a further time (to be defined), annual rent increases are forfeited unless an extension of the stay has been granted."

Subsection 15(6) gives legislative force to the stay of rent increases and subsection 15(7) deals with the forfeit of rent increases after a period of 180 days.

The Acting Chairman: These amendments were noted early on in the hearings, the two additional levels of penalty for substantial noncompliance.

Ms. Caplan: The other day when Ms. Hogan and Mr. Grenier were here I asked if they felt this bill would hit hard at the bad actors or those landlords we have considered as unscrupulous, in effect, who in the past have been able to raise rents annually and not provide maintenance, and the ones who have caused the greatest frustration to tenants. They answered that they both felt this bill would do that. In your view, is it this section in particular that would hit hardest?

Ms. Amaya-Torres: Not only this section, but we have made recommendations and there will be further amendments made to this section to reflect what we think will do that.

Ms. Caplan: But if a tenant is faced with a landlord who is not doing the necessary repairs and maintenance, he will receive no increase. Even the guideline can be withheld if the landlord does not comply with the order.

Ms. Amaya-Torres: For severe cases.

Ms. Caplan: Yes, but this is the one that would give the tenants the protection they currently do not have.

Ms. Amaya-Torres: Yes.

Mr. Griesdorf: That is correct.

Mr. Gordon: At what level would that be made? I will ask that question of the minister.

Hon. Mr. Curling: At what level would what be made?

Mr. Gordon: At what level would the decision be made to proceed or not to proceed with regard to the landlord?

Hon. Mr. Curling: As a matter of fact, I gather sections 14 and 15 are going to be discussed when we bring them forward, and that will be explained. I hesitate to respond because I know 14 and 15 will be presented to you and they can explain it better. I do not want to set a procedure when later on we will be speaking to the Association of Municipalities of Ontario about the maintenance standards board. That would be the best time for me to respond to you.

Mr. Gordon: I understand what you are saying to me, but I believe this is separate from the Residential Rental Standards Board. We are not talking about the board here; we are talking about the rent review commissioner. What is his role in all this?

Hon. Mr. Curling: When he can justify the fact that this has been done, the decision will be made by the rent review commissioner or whatever the title will be at that time. It will be made by that board.

Mr. Gordon: What will happen? Will the tenant go to the rent review commissioner when he gets his notice that he has to pay higher rent? Does he go to that person who is your employee and say, "This landlord has some glaring examples of lack of maintenance which are detrimental to the whole building and to me as a tenant"?

Hon. Mr. Curling: It would be investigated.

Mr. Gordon: After it was investigated, would the rent review commissioner call up the landlord on the phone and say, "You are not going to get the money you want"?

Hon. Mr. Curling: He would not call him up on the phone and tell him that.

Mr. Gordon: Would he write him a letter?

Hon. Mr. Curling: As I said, the process will be that an investigation of that violation will take place and the landlord will be informed in an official way.

Mr. Gordon: Where does the maintenance standards board fit into all this?

Hon. Mr. Curling: It will review all the work orders, as you would call them.

Mr. Gordon: You have told us what the rent review commissioner is going to be doing, but where does the maintenance board fit in to all this? I thought there was going to be a maintenance board that would take care of these matters. Why is the rent review commissioner involved in it now?

Hon. Mr. Curling: It is the rent review officer or commissioner who would grant the increase of the rent if that came before him for a hearing.

Mr. Gordon: Does he investigate it or does the maintenance board?

Hon. Mr. Curling: The maintenance board investigates it. It is a matter of the process. If you want--

Mr. Gordon: Do you want to go through the process?

Mr. Peters: As currently in the statute, subject to the amendments to be brought forward, sections 14 and 15 imply two functions. Subsection 14(2), for example, outlines the functions of the Residential Rental Standards Board. Section 15 then talks about the inspection, if you will, of those standards.

The process under subsequent sections of the act is that, should there be a finding of substantial noncompliance with a substantial standard, that issue, that finding of fact, if you will, is brought to the rent review administrator. At that point, some decision is made by that individual--subject, of course, to appeal to the Rent Review Hearings Board--that in his judgement, based on the finding of fact, the rent increase should be stayed or ultimately forfeited. Since this would be in order under the act, it would be appealable to the Rent Review Hearings Board.

Thus, there has to be a finding that the standard has not been achieved and that the failure to achieve the standard is of such significance that it should be addressed during the rent determination process. An order is made and that order is, of course, appealable. That is outlined in subsections 15(6) and 15(7).

Mr. Gordon: Section 67?

Mr. Peters: No. Subsections 15(6) and (7), which relate to the stay and forfeiture.

Mr. Gordon: Why do you not walk us through, then, just to make it very clear to the committee? I am a tenant and I am not happy about maintenance. What do I do?

Mr. Peters: We will walk through the provision in the statute as it is drafted. Assume, on that basis, that the Residential Rental Standards Board has developed and established the appropriate standards.

Mr. Gordon: So they exist.

Mr. Peters: They exist. Accept that for the moment as a given for the purposes of our discussion.

Mr. Gordon: Okay.

Mr. Peters: As Mr. Laverty previously indicated, the council of the municipality is then responsible for the administration, if you will, or the

enforcement of the standards. That function is obviously delegated in most municipalities; in some it is not.

Mr. Gordon: May I interrupt just for one moment? It will help to make this clear to the committee.

In municipalities we have bodies such as the committee of adjustment, where you go if you want a minor severance. Would the standards board be somewhat the same as the committee of adjustment in a municipality, where--

Mr. Peters: No.

Mr. Gordon: Before you say no, listen to what I have to say.

The committee of adjustment usually has a person who is assigned to the committee to be sort of the part-time planner who advises the committee. Usually you also have a secretary who does the work of the committee. When you set up this maintenance standards board, the municipality is then going to have to establish certain people who are going to liaise and be their gofers and their experts. Is this what is going to happen?

Mr. Peters: Yes. If we are looking at what is in the statute now, the municipality is responsible for the enforcement of the standards as developed. As I mentioned earlier, some municipalities have that inspection force. As I mentioned in response to one of your questions, I believe others do not, and that is an issue yet to be examined.

The point I was trying to make is, assuming the municipality makes a finding that the standard is being violated or not achieved, that is a determination of fact. Should that determination of fact be made, it can then relate directly to the stay of a rent increase. If an order is made under the act saying that, on the basis of the evidence provided by municipality X, you are in violation of this standard for some period of time, obviously the intent is corrective, not punitive. Both the landlords and the tenants want what is wrong to be fixed, and we hope that will be the process.

However, should this fail, obviously there is great concern that tenants not pay for something that is not being provided. In fact, if there is a substantial violation, if all else fails, then there is a provision for the stay and it allows for the forfeiture of that rent increase. But that order, since it would be an order under the act, can be appealed.

Mr. Reville: Where does it say that?

Mr. Gordon: It is part of the second amendment.

Ms. Stratford: You will not find it in section 15, but you will see in section 15--

Mr. Reville: Is that another of these tricks?

Ms. Stratford: --that the minister will make an order providing for this penalty. If you go to section 98, which is the general appeal provision, you will see that an order of the minister may be appealed.

Mr. Reville: Holy moly. Is that unparliamentary?

Mr. Chairman: No, inappropriate.

Ms. Stratford: Section 98 is the appeal provision.

Mr. Chairman: That is any order of the minister?

Ms. Stratford: Yes, it has general application to all orders of the minister made under the act.

Mr. Reville: It strikes me that this process could go on for ever. I call up city hall and the chief building official sends out an inspector. He inspects and he notices the ceiling is falling down in my unit. I assume that is a violation of the property standards. The council gives notice to the minister under subsection 15(3).

Hon. Mr. Curling: My understanding is that sections 14 and 15 would not be discussed now. We discussed this and talked about the process in which it would be done. On hearing this discussion, the municipalities would feel this is the way we have gone. Sections 14 and 15 will be presented to you. I have the report from the Rent Review Advisory Committee and I have looked at it. The staff is meeting with the Association of Municipalities of Ontario, and I will meet with AMO again on October 23.

Why discuss this when we may bring in something different in the process? It would not be worth while even discussing it when something different will come in. While we discuss this, I do not want to give the impression to the municipalities that this is something we are doing to do. I ask you to step back from sections 14 and 15 until I present the main portions of them.

Mr. Reville: With the greatest respect, the minister has introduced two amendments that we are trying to get explanations of. He is now saying, "Do not get the explanation." These are the two extra levels of penalty.

Hon. Mr. Curling: We are talking substantially about what you will be defining.

Mr. Reville: Do you want us to stand this down then?

Hon. Mr. Curling: We talk about substantial compliance, and I think my staff explained that.

Mr. Reville: We were talking about stay and forfeiture and we were trying to figure out when a tenant could expect this process to be reached. How many years does your ceiling have to be falling in before you can get a stay of forfeiture?

Mr. Chairman: The chair is confused too. Do we know whether there will be further amendments to this?

Mr. Reville: Yes, he said so.

Mr. Chairman: Is that certain, on this particular section?

Hon. Mr. Curling: We said so, sections 14 and 15.

Mr. Chairman: Okay.

Mr. Reville: Maybe we should stand them down until the ministry gets itself sorted out.

Hon. Mr. Curling: We are sorted out; we will tell you when.

Mr. Reville: You will tell us when you are sorted out. That will be comforting to know.

Mr. Chairman: Is it agreed to stand down subsections 15(6) and 15(7), along with subsection 1? All right.

Mr. Gordon: Was that 94 minus two?

Mr. Reville: Treat it as a running average of 94 minus two.

Mr. Peters: Amendments will be brought forward for sections 14 and 15.

Mr. Chairman: Sections 14 and 15; yes, I understand that. Is there anything further before we move on? Subsections 19(2) and 19(3).

Mr. Lavery: Subsection 19(2) specifies more explicitly that it is to be a written notice the tenant gets from the landlord. The original draft simply said the tenant should be informed when he has a rent less than the maximum rent. It has also been amended to refer to copies of notices given of rent increases. It also specifies that when there will be a reference to an application made by the landlord, it should be a pending application. In the case of orders made by rent review, it should be a current order; that is, one that has effect on the current rent as opposed to giving the tenant every order that has occurred in the history of rent review.

These are added for the sake of clarity to refer to exactly what pieces of information the tenant should be given and the fact that they should be written and copies, as opposed to the tenant simply being informed.

18:10

Subsection 3 introduces a consequence to the bill. If the landlord fails to inform a tenant that the actual rent being charged to the tenant is less than the maximum rent, then the landlord may not charge the tenant the maximum rent until a 24-month period has passed. That is introduced so that there is a real incentive for the landlord to inform a new tenant of the situation where a maximum rent is greater than the actual rent.

Mr. Gordon: Let me see if we can understand this. May we read it? I will read subsection 19(3). "Where the landlord fails to give the new tenant a notice setting out the maximum rent for the rental unit, if the rent initially charged the new tenant is less than the maximum rent, the landlord may not charge the tenant the maximum rent unless the tenant has occupied the rental unit for at least a 24-month period." I have a question mark beside this which your explanation did not remove. What are we talking about?

Mr. Lavery: If you wish, we are prepared to table an example of this point to review the concept of maximum rent and to indicate in greater detail the consequence of 19(3).

Mr. Chairman: I think that would be helpful.

Mr. Gordon: I noticed the two fellows translating up there looked rather confused. I just wanted them to be able to get the goods.

Mr. Reville: I want to know if this is an oddball question, Mr. Gordon. They seemed to have the answer right there.

Mr. Gordon: That is what I am wondering about. Minister, you are not supposed to tell them I asked that this question be raised.

Hon. Mr. Curling: Not at all, you have a good grasp of things.

Mr. Chairman: The committee does not yet know that the example will be helpful, either.

Mr. Lavery: I have copies of this if the clerk wishes to distribute them to the members of the committee.

Mr. Gordon: Are these visual copies?

Mr. Lavery: Yes.

Hon. Mr. Curling: This is show and tell.

Mr. Gordon: I am pleased to see it was anticipated that someone might have a problem.

Hon. Mr. Curling: We try to anticipate problems. Nothing is hidden.

Mr. Gordon: That is good. I appreciate that.

Mr. Reville: There are no walls, no doors, no windows.

Mr. Lavery: We proceed in two stages. The first page refers to the maximum rent concept, which is cross-referenced to section 5, the first place it appears in the bill. It is also referenced in subsection 68(3), where maximum rent is defined.

Mr. Gordon: If we are going to start talking about sections, let us do it. First of all, to what section does this refer?

Mr. Lavery: The concept of maximum rent first appears in the act in the definitions, but also in section 5.

Mr. Gordon: Could you give the page number, in case I want to go back?

Mr. Lavery: I will try to--

Mr. Gordon: I do not mean to interrupt you. I just want to go through it step by step.

Mr. Lavery: Fine. The definition of maximum rent is on page 1 of the act. It is referenced again in section 5 in the discussion of the notice of rent increase and in subsection 19(3), which we are currently discussing, and it is dealt with in subsection 68(3), on page 29.

Mr. Gordon: Could we have the definition of maximum rent in layman's terms?

Mr. Lavery: The example here is intended to demonstrate that concept.

Mr. Gordon: Okay.

Mr. Lavery: The maximum rent refers to the lawful maximum rent chargeable had all permissible statutory or other increases been taken since August 1, 1985. If the landlord takes no rent increase for one year, that increase can be recaptured in the next year.

For example, in 1984, the statutory guideline was six per cent and the starting rent was \$400. In 1985, the statutory guideline in place after August 1 was four per cent, which means the maximum rent would increase by four per cent. In this case, the landlord did not increase his rent but continued the \$400 rent he had previously been charging. In 1986, assuming the statutory guideline continues to be four per cent, the maximum rent would increase by an additional four per cent to \$433. Under the maximum rent concept, if the landlord so chose, he could increase the rent charged to \$433. That is the concept of maximum rent set out in the act.

Mr. Gordon: This maximum rent is for buildings built when?

Mr. Lavery: The maximum rent concept will apply to all buildings from August 1, 1985, that is, the period that the act applies to, or, more precisely, that section 68 applies to.

Mr. Chairman: Now, we will go back to--

Mr. Lavery: Subsection 19(3).

Mr. Reville: I would like a supplementary on that, if you do not mind, Mr. Gordon.

Mr. Gordon: Sure, go ahead.

Mr. Reville: When you say "permissible statutory or other increases," what are the other increases?

Mr. Lavery: If the landlord were to make an application to rent review, he might be awarded an increase different from the statutory amount.

Mr. Reville: Okay. Is this a shift in concept?

Mr. Lavery: Yes, it is. Under the previous system of rent review, if a landlord did not take a rent increase for whatever reason--and earlier we discussed the regional problems regarding a depressed municipality or a circumstance in which a landlord did not increase the rent in order to retain what he regarded as a good tenant--in those circumstances, under the current act the legal maximum that he could subsequently increase rents by would be governed by the guideline amounts or by an amount that could be justified at rent review under the provisions of the Residential Tenancies Act.

Mr. Reville: Notwithstanding that in 1985 I, as a landlord, for whatever reason did not take the statutory guideline, as long as I have advised a new tenant, I can take it at my next rent increase time, plus the guideline for that year.

Mr. Lavery: Yes.

Mr. Reville: That provides for neat, economic eviction. That is not a question.

Mr. Chairman: If the landlord does not raise the rent and does not tell the person what the maximum rent is, that landlord is then penalized, not for not raising the rent but for not telling the tenant what he could raise the rent to.

Mr. Gordon: That is right.

Mr. Lavery: Under subsection 19(3), if a landlord fails to tell a new tenant that the maximum rent is above the actual rent, the landlord may not increase the rent to the maximum rent for a period of 24 months. He loses the right he would otherwise have under subsection 68(3) to increase it to the maximum rent during that period.

Mr. Chairman: If the landlord starts out with the maximum rent and does not say anything about it, there is no such built-in penalty--if it can be called a penalty--is there,?

Mr. Lavery: I may not be clear on your example. If the landlord is currently charging the maximum rent, then the maximum he can increase the rent by without reference to rent review would be the guideline, but I am not sure I understood your question correctly.

Mr. Chairman: What is bothering me is this: If a landlord charges a tenant less than the maximum rent and does not tell him what the maximum rent is, then that landlord cannot charge the maximum rent for another 24 months, if it is a new tenant. Am I correct?

Mr. Lavery: That is correct.

Mr. Chairman: If the landlord charges the new tenant the maximum rent but does not mention what the maximum rent is, then that landlord can raise the rent to the statutory level in the next couple of years.

Mr. Lavery: He can raise it by the guideline amount if he is at the maximum.

Mr. Chairman: The previous landlord pays more of a penalty even though he charged less than the maximum rent.

Mr. Lavery: The concept in subsection 19(3) is to provide a real inducement for the landlord to inform the tenant. The way the section was initially drafted, unfortunately, if the landlord failed to tell the new tenant of the differential with the actual maximum rent, there was no consequence for that. We have inserted subsection 3 so that there will be a consequence to try to encourage compliance with section 19.

Mr. Morin-Strom: I am confused as to how this would apply to someone who is not a new tenant. What happens to existing tenants who are being charged less than the maximum?

Mr. Lavery: In section 5, which we were dealing with earlier, we have added a provision that a notice of rent increase will have to specify the maximum rent if it is higher than the current rent. It is dealt with differently from section 19. The reason is that a new tenant would not get a notice of rent increase. He would simply be informed when he showed up to rent

the unit that there was that differential. You can give the notice of rent increase to only an existing tenant.

Mr. Morin-Strom: Is there a 24-month period of protection?

Mr. Lavery: No. It is my understanding that if the notice of rent increase does not specify the differential between the maximum rent and the current rent, then the rent increase is not legally valid. It would not comply with section 5 of the act, so the rent increase itself would not be a valid increase and that would be the penalty the landlord would absorb.

Mr. Morin-Strom: What happens to tenants today?

Mr. Lavery: Existing tenants?

Mr. Morin-Strom: Yes.

Mr. Lavery: If the existing tenant is not informed in a notice of rent increase that the maximum rent is higher than the rent being requested, then the rent increase is void. The tenant would continue to be charged the current level of rent.

Mr. Morin-Strom: Do you mean if he was not notified last time?

Mr. Lavery: No, if he does not receive in his notice of rent increase, a notification that the maximum rent is higher than the current rent.

Mr. Chairman: Do you understand Dr. Lavery?

Mr. Morin-Strom: Yes. As long as they have given that notice, then they have the right to increase up to that maximum immediately.

Mr. Lavery: Let me try to give an example of that. If the landlord has requested a four per cent increase but the maximum rent on that unit is higher than the rent being requested, let us say it is \$25 higher, and the landlord fails to tell the tenant that in the notice of rent increase, then the four per cent increase is void; it is not a valid notice and the landlord cannot increase that tenant's rent even by the guideline until a valid notice is served.

Mr. Reville: How long would you have to wait to serve a valid notice?

Mr. Lavery: You could serve another notice immediately but, of course, the actual rent increase could not take effect for a period of 90 days.

Mr. Reville: How does a tenant get the protection of subsection 5(2)? Let us say that proper notice was not given. What does the tenant do?

Mr. Lavery: That is a matter within the jurisdiction of this act, I believe, and he could then go to the minister for determination if the notice had not been validly given. Is that not correct?

Ms. Stratford: Our first remedy would be to refuse to pay the increase on the grounds that the notice is void, but if the tenant did pay the increase, he could bring an application to the minister under section 92 for rent rebate, given that he has paid an amount that is not authorized by the act.

Mr. Reville: How does a tenant know that?

Ms. Stratford: How does he know he has that remedy?

Mr. Reville: Yes.

Ms. Stratford: The act provides for the remedy and we are obviously planning to educate tenants on their rights and remedies under the act.

Mr. Reville: Dr. Laverty is going to explain this to them. Right?

Ms. Caplan: Just to clarify it, we talked about this quite a bit when we had a representative here from the Sarnia area, where the market is in force at this time because of the high vacancy rate and the rents are below market. What the committee told the witness was that under this act, in that kind of situation, should the market improve and the vacancy rate go up, he would not be in a situation of having to reapply, but just by virtue of the fact that he had given notice that he was below the legal maximum rent, the tenant would be on notice because the notice was there--there would be adequate protection for the tenant should market conditions change. I believe that was the context of the purpose of this section. Is that correct?

Mr. Laverty: Yes, that is my understanding.

Mr. Chairman: Are there any further questions on the examples under subsections 19(2) and 19(3)? If there are no other questions, I suggest to the committee that this is an appropriate time to adjourn and that we continue our heady pace tomorrow afternoon following routine proceedings. We are adjourned until then.

The committee adjourned at 6:29 p.m.

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STANDING COMMITTEE ON RESOURCES DEVELOPMENT

RESIDENTIAL RENT REGULATION ACT

THURSDAY, OCTOBER 16, 1986



STANDING COMMITTEE ON RESOURCES DEVELOPMENT

CHAIRMAN: Laughren, F. (Nickel Belt NDP)

Bernier, L. (Kenora PC)

Caplan, E. (Oriole L)

Cordiano, J. (Downsview L)

Epp, H. A. (Waterloo North L)

Gordon, J. K. (Sudbury PC)

Morin-Strom, K. (Sault Ste. Marie NDP)

Pierce, F. J. (Rainy River PC)

Reville, D. (Riverdale NDP)

Smith, E. J. (London South L)

Stevenson, K. R. (Durham-York PC)

Substitutions:

Jackson, C. (Burlington South PC) for Mr. Stevenson

Knight, D. S. (Halton-Burlington L) for Ms. E. J. Smith

Clerk: Decker, T.

Assistant Clerk: Manikel, T.

Staff:

Richmond, J. M., Research Officer, Legislative Research Service

Witnesses:

From the Ministry of Housing:

Curling, Hon. A., Minister of Housing (Scarborough North L)

Laverty, P., Director, Rent Review Policy Branch, Rent Review Division

Stratford, L. A., Senior Solicitor, Rent Review Division

Peters, F. H., Executive Director, Rent Review Division

Braund, D., Rent Registrar, Rent Review Division

From the Rent Review Advisory Committee:

Grenier, W., Co-Chairperson

Amaya-Torres, P.

LEGISLATIVE ASSEMBLY OF ONTARIO
STANDING COMMITTEE ON RESOURCES DEVELOPMENT

Thursday, October 16, 1986

The committee met at 4:22 p.m. in room 151.

RESIDENTIAL RENT REGULATION ACT
(continued)

Consideration of Bill 51, An Act to provide for the Regulation of Rents charged for Rental Units in Residential Complexes.

Mr. Chairman: The committee will come to order. The first item on the agenda is the election of a vice-chairman since the previous vice-chairman is no longer a member of this committee.

Ms. Caplan: Provided I can make a lengthy nomination speech, Mr. Chairman--

Mr. Chairman: No.

Ms. Caplan: --I am very pleased to place in nomination the name of Mr. Reville.

Mr. Chairman: Mr. Reville has been nominated as the vice-chairman.

Mr. Reville: I think you should allow her to make the speech.

Mr. Chairman: I am not sure you would want to hear it.

Ms. Caplan: The problem is that my nomination speech might not get you elected.

Mr. Chairman: Are there further nominations? If there are no further nominations, Mr. Reville, do you accept nomination as vice-chairman?

Mr. Reville: Thank you, Mr. Chairman. I accept.

Mr. Chairman: Thank you, Mr. Reville. You are the vice-chairman of the resources development committee. I am sure the members of the committee welcome you to that position.

We have with us today Mr. Grenier and Ms. Amaya-Torres for the Rent Review Advisory Committee.

Yesterday, we stood down a couple of sections. There was the definition of "economic loss" and also the sections on the maintenance standards board to be dealt with at a later time. We completed subsection 19(2) and subsection 19(3) and were moving on to subsection 25(2). Are there any comments or questions on subsection 25(2) vis-à-vis the amendments?

Mr. Laverty: Would you like a brief explanation as we go? Is that the wish of the committee?

Mr. Chairman: Yes, I think that is the best way.

Mr. Lavery: On subsection 25(2), we have two changes. In the initial act and in this act, in subsection 25(1), the applicant is required within 15 days of making an application to "file with the minister the documents and material the party relies upon in support of the application." In the initial drafting of subsection 25(2), reading that section the way it was originally printed, the applicant would have had an additional 30 days in which to submit further representations, which was not in line with the original intent.

The original intent was that all the material the applicant wished to submit would be filed within the first 15-day period; after that, it was up to the respondent to comment on the application. However, if the respondent has made a comment, it is only fair to add an ability for the applicant to comment on the comment made on his initial application. Therefore, we have also added to subsection 2 an ability for the original applicant to make further comment when there has been a comment on the application.

Mr. Chairman: Is this in subsection 3?

Mr. Lavery: No. it is still in subsection 2. Those are the two changes in subsection 25(2).

Mr. Jackson: In other words, it is to provide time lines for the original applicant to respond to a subsequent comment by the landlord or the tenant, whoever is not the initial applicant. Is that all it is?

Mr. Lavery: Yes. It is 15 days on top of the 30 days. In subsection 25(1), there are 15 days from the initial application for the applicant to submit his documentation. In subsection 25(2), the other party has 30 days. If there are such comments, there is an additional period not later than 45 days from the date of the application in which the further comments by the initial applicant must be placed before the minister.

Mr. Jackson: When the bill was originally stylized, it was indicated that it would be streamlined and we would have a reduction in time processes. How much time are we adding back to the process? It is not significant, but is it another 15 days, essentially?

Mr. Lavery: From the initial draft?

Mr. Jackson: Yes. That is when it was originally stylized.

Mr. Lavery: In the initial draft, subsection 25(2) referred to 30 days from the date of making the application. We are adding a period of as many as 15 days to allow for a response by the initial applicant to the comments made on his application.

In this case, which I might note does not apply to whole-building review--that has a separate series of time frames--out of fairness, we would be adding an additional 15 days to allow the initial applicant to comment on representations made with regard to his initial application.

Mr. Jackson: What rights, if any, are lost if the original applicant is not apprised at that time? Is there any jeopardy involved?

Mr. Lavery: I am not sure I quite understand the question.

Mr. Jackson: If, for some reason, the party is not advised that he

has two weeks or 15 days to make comments, what happens? When you are focusing on a specific amendment to a specific clause, it is difficult to get it in context. If I am struggling, it is because we have not gone through the bill. We are picking out subsections, and I am trying to put this one in context. Do you understand my question?

Mr. Laverty: Yes. There is a three-part answer: (1) there is a legislative provision; (2) there is the educational campaign; (3) in the drafting of the notices, we will be including information relevant to the parties to inform them of their rights under that particular application. It is a matter of how we draft the actual forms.

16:30

Mr. Jackson: Unless I am missing the point, it does not necessarily flow that someone will require this. It is only if there is a comment from a party to the original applicant's motion.

Mr. Laverty: Yes.

Mr. Jackson: If the breakdown were to occur, it would not be for lack of informing them that they had a right; it would be for lack of informing them that someone had commented and that they may wish to respond.

Mr. Laverty: Yes, and that is covered in subsection 25(3).

Mr. Jackson: We will be getting to that shortly.

Mr. Laverty: Immediately after subsection 25(2).

Mr. Jackson: I am so slow I am getting ahead of myself.

Mr. Chairman: Is there anything else on subsection 25(2)? All right, Mr. Laverty.

Mr. Laverty: Subsection 25(3) says, "Where the minister extends the date for filing set out in subsection (1), the minister shall notify the parties affected by the application of the extended filing date and of the extended time for making representations under subsection (2) in consequence thereof."

The amendment here was that the initial drafting had a fixed period of an additional 15 days. In that the extension allowed by the minister might be only one or two days, it seemed that it might not be appropriate in all cases to allow the full additional 15 days. Therefore, to allow for administrative flexibility, the time period is left in a form that is not fixed but rather can be flexible to suit the needs of the circumstances of the extension.

Mr. Jackson: Do you have a question, Mr. Chairman? I do.

Mr. Chairman: You had a look on your face. I did not know whether it was an acquired look or whether you really had a question.

Mr. Jackson: I am just fresh from question period. It is an acquired look.

I guess it is the same question I asked earlier. What is the situation wherein the minister, as we understand, does not get that notice to the

original applicant? What happens in the process? Not being a lawyer, I would like to know what happens.

Mr. Laverty: Fortunately, I have a lawyer here.

Mr. Chairman: If Ms. Stratford wishes to answer directly, it would be appropriate.

Mr. Reville: Is there a small disagreement between lawyer and client?

Mr. Laverty: By no means. There is no such thing as a small disagreement.

Mr. Jackson: It is only the numbers.

Ms. Stratford: Are you asking how a respondent or an applicant, for example, would know there were representations in response? Is that what you are asking?

Mr. Jackson: No, I asked that earlier. Under the bill, the minister advises the party, but I am asking what happens when he forgets to advise that there was another comment--I guess in the case where the original applicant is the landlord and the tenants have commented but the minister has not told the landlord, who is the original applicant. Am I on track with that?

Ms. Stratford: No, I do not think the minister will advise the applicant that representations have come in. This section does not impose an obligation on the minister to do that. It says the party may inspect the application, the documents, and he can submit representations. It would be incumbent upon the respondent to check the file or to call the office and determine whether representations were made.

Mr. Jackson: Okay. Now we are getting somewhere.

Ms. Stratford: The minister will advise whether time limits had been extended.

Mr. Jackson: He will advise on that. For what reason? Because there has been a further comment. Is that not correct? Is that not what the section is doing?

Ms. Stratford: Time limits can be extended generally where a party requests it and where the minister thinks it is fair to do so. But where a time limit is extended, the minister must advise everyone so that the parties know they now have more time to make representations.

Mr. Jackson: My simple question was, what happens if he does not advise all the parties that the times have been extended?

Ms. Stratford: Then he has not complied with the act. There would then be a very good chance of getting the minister to reconsider the time limits once this was pointed out to him. If, for example, it gets to the point where they get a decision, they were not notified earlier that the time limits had been extended and they missed an opportunity, then they could appeal the order.

Mr. Jackson: So it would be deemed a nonhearing, and possibly they would start again to make sure that all the compliances were there.

Ms. Stratford: Yes.

Mr. Jackson: That is what I wanted to know.

Mr. Chairman: Is there anything further on subsection 25(3)? If not, subsection 27(1).

Mr. Laverty: Subsection 27(1) substitutes for the word "persons" the words "landlords and tenants." This clarifies that it is the tenants and landlords who are the people to get notices under this section. Without this, it might be argued that other parties ought to receive notices, which was not the intent of the initial section.

Mr. Jackson: Are we going to have a system whereby a tenant can designate a person to represent him? Is the system where form 2 is signed at the bottom, appointing Joe Blow to represent him, being retained under the new legislation? Do you know what I am leading up to?

Ms. Stratford: Yes. There is a condition in the act that an application may be signed by a party or by his or her agent, and there is a right under the law to appoint an agent to act for you in these matters.

Mr. Jackson: Then my question is, is that legal? Does that cover their appointee?

Ms. Stratford: If the application has been made by an agent on behalf of a landlord or tenant, the minister would notify that agent of--

Mr. Jackson: That was not my question. My question was not on the process; it was on whether they are legally obliged to notify them. Under this, it says you have to tell only the landlord and the tenant. Sometimes I read legislation that says, "and/or their designate." It is not here. Does this mean it is not necessary, is legally not binding?

Ms. Stratford: Legally, if you have an agent who is not otherwise a landlord or tenant who would be directly affected, there is no obligation under this provision to serve him.

Mr. Jackson: I ask the minister, would it not be appropriate to cover that? If all the tenants in a building are represented by one designate, technically they do not have to tell them according to the way the clause is written.

Hon. Mr. Curling: On page 1 it says, "'landlord' includes the owner, or other person permitting occupancy of a rental unit," and it goes on almost to take about an agent of the landlord. I feel that the tenant could have an agent and I thought that was part of this. My impression is that it would be appropriate to have a tenants' agent represent the tenants, if you are asking my opinion on that.

Mr. Jackson: I just want to make sure people are covered. That is all I am trying to achieve.

Mr. Chairman: It is a legitimate question. Ms. Stratford, were you saying in your answer that if all the tenants in a building had designated a

person to be the representative, that person would not have to be notified, the way this section is written?

Ms. Stratford: I am suggesting that this section does not require that we give notice to an agent. However, there would be an obligation on the minister in general. If the party advised the minister that he or she was being represented by an agent, then there would be an obligation if the party wanted that agent served with these documents. The minister would do that. If he did not do it, I suggest that later on he would be vulnerable to an attack on the basis that he did not properly serve the tenant who had indicated--

Mr. Chairman: You do not see it as a loophole.

Ms. Stratford: No, I do not see it that way. It is implied that landlords and tenants can have agents, and where they do, they would certainly be kept informed.

Mr. Jackson: A tenant could designate a legal community group to act on his behalf and assume, wrongly, that the community group was being notified of all the matters. The head of the tenant group could say, "That is fine; I am going to Florida," and all the notices would be going to his apartment. Under those circumstances, a hearing could be called and no one would show up from the other side. It is an unusual case but it illustrates my point. What could happen is that after they found out about it, they could appeal to the minister and he could say it was not done properly, that it would be done again. Is that basically what might happen under the circumstances I suggested?

16:40

Ms. Stratford: Yes. If the tenant says he did not receive adequate notice because he was assuming that service was going to remain with the agent, then he would have an argument that service had not been properly effected and that he had not been properly notified. The matter could be done over.

Mr. Jackson: We have been operating now for about 15 minutes. We have done two clauses and they say that both questions I have raised would be a no case or whatever it is called by the lawyers in the room, and that then we would have to start all over again. My question is, do we want to do something about it?

Mr. Reville: This is not the place to do something about it.

Mr. Jackson: I realize that.

Mr. Chairman: We cannot make amendments now. Valuable questions are being raised. I assume the ministry has been served notice that these are potential problems; not that I am trying to encourage more amendments.

Mr. Jackson: I am sure you will see many in the days ahead.

Mr. Chairman: Is there anything else on subsection 27(1)?

Mr. Laverty: Essentially, the change in subsection 27(2) is that in the initial draft, the days are counted from the date of the receipt of the notice. Under the new subsection, the days are counted from the date of giving the notice. The reason for this change is that it is a good deal easier to

establish the date on which a notice is given than the date on which it is received.

Mr. Chairman: How many days was it in the previous draft? Was it still 30?

Mr. Lavery: In the initial draft it was 30 days from receipt; in the new one it is 30 days from the giving.

Mr. Chairman: In effect, it is a shorter time frame.

Mr. Lavery: Yes.

Ms. Stratford: Except that under subsection 20(2), a notice is deemed to be given on the fifth day after mailing. There is some time built in.

Mr. Reville: I am sorry. What was that section?

Ms. Stratford: Subsection 20(2).

Mr. Reville: That inspires another question.

Mr. Chairman: Do you see how inspiring you are, Ms. Stratford?

Mr. Reville: In subsection 20(1) you describe the different ways notice might be given. I assume it is where it is in the mail that is the only one that requires it to be deemed to have been given, because the other ones--for instance, how will you know the notice was handed to a person when it was handed to the person?

Ms. Stratford: This is a point the minister would have to determine. He would have to ascertain proper service was effected in accordance with that section.

Mr. Reville: Is that an evidentiary problem? Are there guidelines for this?

Ms. Stratford: It could be an evidentiary problem if there is a disagreement between parties about when the document was given. I suppose if the respondent claims not to have received it and the applicant claims it was served personally on a certain day, it would be a dispute the minister would have to resolve.

Mr. Chairman: Is there anything else under subsection 27(2)?

Mr. Lavery: In subsection 29(3), it is similar to the change that we made back on subsection 27(1); that is, striking out "persons" and substituting "landlords and tenants" twice in this particular subsection. It is to clarify that the persons being referred to are indeed the landlords and tenants and not some other persons.

Mr. Chairman: The problems raised by Mr. Jackson under subsection 27(1) would be the same concerns in this section, would they not?

Mr. Lavery: The same questions would arise.

Mr. Chairman: The same questions would arise. I realize that "concerns" is a very strong word.

Mr. Laverty: Section 30 deals with matters that are to be considered by the minister. The initial draft dealt with matters considered in an application. However, under the act, the minister has the power to act on his own motion in some circumstances. The amendment makes it clear that when a matter is commenced on the minister's own motion, the same considerations will apply; that is, the considerations outlined in clauses 30(a) and 30(b).

Mr. Chairman: The minister is mumbling about being in slow motion here; I do not know what that means. Are there any questions on section 30, the minister's motion?

Mr. Laverty: In section 31, we are replacing the phrase "the minister is not required to hold a hearing," with the phrase "a hearing shall not be held." This is a matter of making it clear that the minister will not conduct a Statutory Powers Procedure Act hearing in the course of the procedures of administrative review. The original wording did not rule out the possibility that the minister might decide to hold such a Statutory Powers Procedure Act hearing. The new wording makes it clear that he shall not hold such a hearing.

Mr. Jackson: This specific clause has been highlighted by several groups which have been before us. In fact, when the Rent Review Advisory Committee first came before us, its members expressed some concern about the permissive elements of that clause. I would like to have Ms. Amaya-Torres and Mr. Grenier explain whether this was a matter that was wrestled to the ground at RRAC, whether it was a brainchild of the ministry or whether it was something that came out of public hearings. I can ask the minister whether he reacted to public hearings. Where did this come from?

Ms. Amaya-Torres: I do not recall having any discussion on that.

Hon. Mr. Curling: I have no powers under any statute to hold such hearings; that is why.

Mr. Jackson: While we have the bill here, you can do whatever you want.

Hon. Mr. Curling: No. Is it that I have no power under any statute to hold such hearings, and that is why it is not there?

Ms. Stratford: The principle of administrative review is that a hearing will not be held. The process will be administrative. The purpose of this amendment is to make it very clear that no hearing is going to be held.

16:50

Mr. Chairman: Is that because you would be worried that if the minister said "no hearing" frequently, people would fall back on the Statutory Powers Procedure Act and demand it under that act?

Ms. Stratford: It is possible that with the broader wording, a party could say that the minister did have the discretion and could prevail upon the minister to exercise that discretion to hold a hearing, which would change the nature of the administrative review.

Mr. Chairman: Is it common under other pieces of legislation you are aware of to restrict access to the Statutory Powers Procedure Act?

Ms. Stratford: It is possible to provide for an administrative review, which is what we have done here, and to do away with the right to a hearing. We have provided for procedural fairness, which is something the law does require, and we have provided for a hearing before the Rent Review Hearings Board if the parties are not satisfied with the minister's order.

Mr. Gordon: In regard to this hearing you are saying should not be held, specifically at what point are we in making this determination? A second question is, for how many other acts has a law been passed saying that a hearing shall not be held, with all the rest that goes along with this clause?

Ms. Stratford: In answer to your first question, at this point in the process it is administrative review throughout; when an application is made to the minister, any application, a hearing shall not be held.

Mr. Gordon: Do you mean an employee? Are we referring here to the minister?

Ms. Stratford: The minister or his delegate.

Mr. Gordon: His delegate. We are really referring to the delegate, are we not?

Ms. Stratford: I presume so.

Mr. Gordon: This will be very confusing to people who happen to tune in next summer. They will keep hearing about the minister. They are liable to think this minister works awfully long hours. Why do we not call it what it is and say we are talking about the rent review officer? Is that what we are going to call him?

Ms. Stratford: I believe the term is rent review administrator.

Mr. Gordon: The rent review administrator; let us talk about that guy.

Ms. Caplan: Or gal.

Mr. Gordon: For sure.

Interjection.

Mr. Gordon: I hope that in the case of someone with six daughters, one at least could get a job somewhere along the line, but that is part of the government so what can I say, Mrs. Caplan? Can we carry on without any more interjections from the people sitting on the opposite side?

Ms. Caplan: Humorous interjections.

Mr. Gordon: Did I not laugh?

Ms. Stratford: Have I answered your first question?

Mr. Gordon: No, you have not. You made a good effort.

Ms. Stratford: I do not understand your question. I ask that you rephrase it.

Mr. Gordon: We are talking about the rent review administrator. "A hearing shall not be held." It has been changed from "not required to hold a hearing." What point are we at in this whole step-by-step situation that the landlord or the tenant goes through? What point are we at with this kind of determination?

Mr. Chairman: Mr. Grenier wishes to participate.

Mr. Grenier: The objective was to streamline the procedure. The idea of the agreement was that we would go to administrative review first so that people did not automatically have recourse to, "While that does not work, I am going to take step 2." The objective is to try to get past step 1, get an agreement at step 1 and the whole thing is over and done with. If they know they can have the minister hold a hearing every time, they are automatically going to have a hearing and we will not have the streamlining. That was the objective.

Mr. Gordon: That is a very clear answer but it leads to another question. In all the discussions we have had about this bill, I thought that at one point the rent review administrator would be trying to get the parties together. Is that not a meeting or is not another word for that a "hearing"?

Ms. Stratford: No. There is a difference between a meeting and a hearing. Section 29 gives the minister the power to convene a meeting between parties to discuss the issues raised by the application, but that is not a hearing. If we call that process a hearing, the process would be subject to the Statutory Powers Procedure Act, which imposes a large number of procedural requirements that would considerably delay the process at that stage.

Mr. Gordon: Therefore, you still want to have a meeting at that stage, but you do not want to call it a hearing.

Ms. Stratford: The minister has the discretion to convene a meeting in the appropriate case--it may not always be necessary--but that meeting is not a hearing, and therefore, the Statutory Powers Procedure Act will not apply. We have indicated that in this section as well.

Mr. Gordon: Perhaps someone could explain the ramifications of the Statutory Powers Procedure Act.

Mr. Chairman: Do you mean the process that one must go through or what the bill is?

Mr. Gordon: Would the chairman or a member of the committee explain the Statutory Powers Procedure Act? Perhaps the minister would explain. I am sure the minister would not mind.

Hon. Mr. Curling: I would not mind, of course, but I do not think I would give you the precise definition you want.

Mr. Gordon: I was giving you your opportunity to shine, you know.

Mr. Chairman: Given the legal nature of the question, perhaps Ms. Stratford should answer.

Mr. Gordon: Okay. You are not a lawyer.

Ms. Stratford: The Statutory Powers Procedure Act provides minimum rules for the proceedings of the tribunals to which it applies. It requires service of a notice of hearing and that the parties be notified in a particular way. It provides for a cross-examination of witnesses and for summoning witnesses. Generally, it sets up a fairly formal framework under which the hearings should operate.

We think those protections are not necessary to the administrative review process at this stage. The meeting itself could take place more informally, and the same objective could be achieved if you had parties attend and discuss issues. The Statutory Powers Procedure Act and all its formalities would not need to be adhered to. There would be more flexibility in the timing of a meeting and the way it is run.

Mr. Gordon: Is there an element of natural justice in this business about the Statutory Powers Procedure Act?

Ms. Stratford: There is no question that the law requires that even an administrative process be subject to procedural fairness. We believe this bill contains that protection. There is fairness to parties. There is the right to make representations. There are a number of rights of persons to know what the application is about and to have an opportunity to speak to it. There is no question that the law requires this protection, and we believe it has been fulfilled.

Mr. Gordon: In a sense, are you saying you are going to waive the concept of fairness, which is waived in other bills--

Ms. Stratford: No, we are not waiving fairness at all.

Mr. Gordon: --not just this bill?

Ms. Stratford: No. Fairness is built in. We believe we have provided for fairness by allowing everyone to know what is in the application and to have an opportunity to make representations on the application and to the minister.

Mr. Jackson: May I have a supplementary? The option for cross-examination does not present itself as a natural right if the opportunity to comment is done in isolation from the attendance of the other party. I am not disputing that it is fair to have all the cards of one party put on the table; they are examined and you comment. All the cards are then placed on another table, but the opportunity to cross-examine does not exist under the situation you have just described.

Ms. Stratford: We have not built in a cross-examination procedure in the administrative review. There would be nothing to prevent the minister from convening a meeting and having both parties attend to discuss the issues and ask each other questions, but it is not a requirement. That right is not built in the bill at the administrative review level.

Mr. Jackson: If I may stop you there, that is what I understood the old clause to say, and that is why we were prepared to live with it. Under the amendment we are discussing, that has evaporated. Is that correct, or am I missing something?

Ms. Stratford: No. The right to hold a meeting is in section 29. It was never intended, even in the original section, that the minister would be holding hearings. We felt the phraseology left some discretion that was not intended to be there.

17:00

Mr. Jackson: You have removed the discretion of the minister to have that.

Ms. Stratford: We do not think it was in the original draft, but you erase any argument.

Mr. Jackson: If I have to spend all night looking at Hansard I will find it, because I clearly remember people saying, "Do not worry; we have the option if you ever need it, that you can appeal to the minister."

Ms. Stratford: The minister has the right to refer an application to the board and circumvent the administrative review process in the appropriate case. Perhaps that is what you are thinking of.

Hon. Mr. Curling: Mr. Jackson, I feel that somehow we are mixed up with the first and second stages.

Mr. Jackson: That was Mr. Gordon's question, which was, "Where is that in the whole thing?" I do not think we got an adequate answer to that in the first place and I would like to understand it.

Ms. Caplan: Perhaps this might clarify. Perhaps the Rent Review Advisory Committee will be helpful.

It is my understanding that the process as outlined is that the first stage is the administrative review, which is designed to be less formal, less intimidating and, one hopes, more of a discussion. That is the reason: so that the Statutory Powers Procedure Act would not create a court-like atmosphere where people would feel they would have to come with a lawyer. If, at that end of that process, the parties are not satisfied with the result, they can request a formal review with the board, which would then be held under those other conditions of the Statutory Powers Procedure Act.

That is the general thrust. It says, in the first case, that it is for the purpose of streamlining and making it less intimidating and less complicated. If it can be resolved there, great; if it cannot, there is the appeal process and a full hearing as we have today.

Mr. Grenier: The objective was that members of RRAC feel that most questions between tenants and landlords can be resolved between tenants and landlords. That is what we feel.

Ms. Caplan: With the administrator as a facilitator.

Mr. Grenier: That is right. You have somebody there to adjudicate, to use his good offices or whatever. You do not want to have a formal hearing, because as soon as you have a formal hearing you get into an adversarial position instead of trying to find a solution to the problem. The objective was: "Let us not make this thing into a big foofaraw the first going on; let us sit down and see whether we can come to a solution to the problem right away." If we cannot, then you have all the rest of the procedures to go to.

Nobody is losing anything. What you are trying to do is to prevent the minister from intervening in what is supposed to be a friendly discussion between tenants and landlords trying to solve the problem.

Mr. Chairman: Just before you go on, can we hear from Mr. Peters?

Mr. Peters: In response, perhaps to Mr. Jackson's question, when we came before the committee originally, we outlined the process in terms of the time lines in the sense of the application having been filed at least 90 days prior to the first date of the effective rent increase. We talked about the 50-day period when representations could be made and meetings could be held, and the rent review administrator would have a 25-day period to come to some decision, because under the act we were pledged to deliver a decision 15 days prior to the first effective date. The process we are now talking about, the administrative review process, occurs during that 50-day period, if you will.

As Louise has pointed out, the opportunity exists to convene a meeting, if necessary. The only point is that this section says this meeting is not a hearing and is therefore not subject to the Statutory Powers Procedure Act; and it removes any basis from argument to suggest that it should be, because that is not the intent. The second stage, should that order be appealed, is held under the Statutory Powers Procedure Act.

Mr. Jackson: That is helpful, but I still go back to the point I am trying to stress, which is that under certain circumstances it may only protract the entire process when it is clear that we should go to a hearing immediately. I do not think for a moment that anyone in this province is going to suggest, when the tenants in the Cadillac Fairview units get their increase, that they will want to sit down at a friendly meeting to have it all explained to them. They will want to get to rent review immediately in order to resolve the matter.

That clause, I am sure, is the section that was stylized whereby the minister had the right under certain circumstances if he chose to do it. I guess I am not catching the point. I am hearing that he has it somewhere else but he does not have it here. Is that what is confusing me? I think there are sufficient cases where it might be in everybody's best interests to go directly to jail and not pass go.

Ms. Stratford: The bill does recognize that, and section 28 is perhaps the provision you are thinking of that permits the minister to refer a matter to the board rather than put it through the administrative review process.

Mr. Jackson: I would like to stay with the lawyer if I can. How does that square with section 31, which says that a hearing shall not be held?

Ms. Stratford: The hearing we are referring to there is the meeting by the minister. It is the minister who may not hold a hearing. The board does hold hearings. The entire scheme of the appeal process is based on a hearing before the Rent Review Hearings Board.

Ms. Caplan: The minister can hold meetings, the board holds hearings and the difference in the wording relates specifically to the Statutory Powers Procedure Act.

Mr. Jackson: It says here that the minister shall not hold a hearing.

Ms. Caplan: That is right; he will hold a meeting instead of a hearing. If it were a hearing, it would come under the Statutory Powers Procedure Act. As a meeting, it does not come under that act.

Mr. Jackson: That has all been explained. That is going to happen eventually after the meeting.

Ms. Caplan: What is your problem?

Mr. Jackson: It only protracts the process.

Ms. Caplan: It does not protract the process. It will streamline it because the hope is that the majority can be solved through the--

Mr. Jackson: You missed my point.

Hon. Mr. Curling: The act explains that I cannot hold a hearing; it is making it explicitly clear that I cannot hold a hearing. If a hearing has to be held, it must be held by the Rent Review Hearings Board, which comes under the Statutory Powers Procedure Act.

Ms. Caplan: He can direct the hearing to the board directly under section 28.

Hon. Mr. Curling: Yes. On the other part he was asking about, I can refer the first meeting, as they come forward, to a hearing.

Ms. Caplan: That is section 28.

Hon. Mr. Curling: Yes. I can make the referral, but I cannot hold the hearing myself. This gives me no statutory power to hold a hearing, but the rent review board can hold such a hearing.

Mr. Jackson: We are still referring to the minister in both cases. I fail to see how the language is any clearer. I may accept your explanation. I do not see how that squares with the wording in front of me.

Mr. Cordiano: It says, "The minister may at any time in his or her discretion refer any application made to the minister...to the board." He can refer it to the board directly without having to go through an administrative review.

Ms. Caplan: If he refers it to the board, it has a hearing; if he refers it to the administrator, they have a meeting. It is simple.

Mr. Grenier: We can solve most of the problems at the hearing, and the onus at that point, given the time involved--and your point is well taken--the pressure then is on the landlord to try to solve the problem.

You see how the thing works. If at the hearing he can solve the problem with the tenant, he has now cut down the time. Everybody accepts the deal and away they go. If, on the other hand, he cannot solve the problem and cannot satisfy the tenant, then on they go to the next step, because he was not going to satisfy him in the first place. We are of a mind that most of the problems are going to be solved at the administrative review. That is why we are trying to get away from having hearings, because they do take forever.

Mr. Chairman: Mr. Jackson, in the explanation of all the amendments it states under section 31, "Reworded for greater clarity."

Mr. Jackson: Thank you.

Mr. Gordon: On that point, if a tenant requested a meeting from the rent review administrator, that request would be acceded to all the time, right?

Mr. Chairman: A meeting.

Mr. Gordon: A meeting. If a landlord said, "I would like to have a meeting with the tenants," either side, that request would be honoured. Is that correct?

Hon. Mr. Curling: Yes, but I cannot hold a hearing as the minister. I can refer that situation to a hearing, but I myself cannot hold it.

Interjections.

Ms. Caplan: The answer to the question is yes, anybody who requests a meeting can have a meeting.

Mr. Gordon: I understand that.

Ms. Caplan: Good.

17:10

Mr. Gordon: What if the rent review administrator does not really think a meeting is necessary? If he is not asked for a meeting, he would not bother holding a meeting, would he?

Mr. Chairman: I do not want to interpret the legislation, but if someone wanted a meeting under the process, the rent review administrator would be foolish not to co-operate and urge that such a meeting be held in order to prevent a more formal hearing. That would be my understanding of it.

Mr. Gordon: A lot of emphasis here has been put on the idea that we want to speed up the process, that we want to get things moving fast. Let us suppose you have a rent review administrator who does not believe in meetings.

Hon. Mr. Curling: I am just saying that this system is set up to have that meeting.

Ms. Caplan: We are going to educate--

Hon. Mr. Curling: I think he would be out of a job soon.

Mr. Gordon: I am sorry, Mr. Chairman. I have three people trying to explain this act to me at present. I have three people and I would like to hear from one of them.

Mr. Chairman: All right. Which one?

Mr. Gordon: Any one. They can all line up if they want.

Ms. Caplan: Part of the job description for the administrator is that he must like meetings.

Mr. Gordon: I can conceivably see a situation where you would have a rent review administrator who is really gung-ho and therefore is very reluctant to call a meeting.

Ms. Caplan: Anybody can request a meeting.

Mr. Grenier: The tenants and the landlords can have their own meetings.

Mr. Gordon: Where do the tenants and landlords fit into all this?

Ms. Caplan: They can request a meeting and have a meeting.

Mr. Gordon: You could find yourself at the appeal stage without even realizing that you could have had this meeting. What are you building into the bill to try to deal with this, or will this come in regulations?

Mr. Chairman, while I am at it, could I see the regulations concerning this particular clause at the next meeting we have?

Mr. Cordiano: That is not the purpose of our meeting today.

Ms. Caplan: I know. This is a in special clause to the bill. The whole thrust of our discussions today--

Mr. Chairman: Ms. Amaya-Torres wanted to make a contribution.

Ms. Amaya-Torres: Built into the bill is clause 11(c), under which the minister shall, "take an active role in ensuring, by any suitable method, including the making of grants, that landlords and tenants are aware of the benefits and obligations established by this act." All of us on the Rent Review Advisory Committee are very keen on public education because it benefits both sides, and that is how people are going to know that they are entitled to a meeting.

Mr. Gordon: I appreciate that answer. I would like to know, though, since you are introducing this point that, "a hearing shall not be held," exactly what are you going to do in the ministry to make sure that both tenants and landlords know that a meeting is probably something which should happen at that stage, or are you counting on having no meetings? I would like to know that too.

Hon. Mr. Curling: The act did not say that hearings should not be held.

Mr. Gordon: I understand the business about hearings. Ms. Caplan explained that. Do you want to explain to me about meetings?

Hon. Mr. Curling: If I do not understand your question, let me know. We said that there is a set of processes. There is the meeting process, about which all the tenants and landlords will be informed and to which they have access. The second phase is the hearings. Section 31 indicates that I have no authority to hold a hearing. Who has the authority to hold that hearing? The Rent Review Hearings Board has the authority to hold hearings. That is all it is saying.

Mr. Gordon: We are going to discuss this again. This is not the first time we have discussed this particular point.

Mr. Reville: We have been discussing this for a long time.

Mr. Gordon: I know we are talking about paper and words here, and this is a clause, this is a bill, this is the minister, these are my glasses and all these types of things. I understand that. However, let me put this point to you, Mr. Chairman, and any one of the people here can answer it. We are going to see in this province all kinds of rent increases of varying amounts. I am not going to be inflammatory here today and say from X to Y. I will set that aside. I will not be political about it. However, I put it to you that I see a danger that things are going to move so fast with this new system that both tenants and landlords are going to find themselves at the hearings board level and feel they did not get an opportunity to meet.

I am asking what you are going to do to ensure that they meet. Will I get that answer today or when we go through clause-by-clause? What are your plans? How much money are you going to spend to make sure they understand? What public relations programs are you going to follow? Who is going to be responsible? We should get those answers.

Mr. Grenier: I have already given them to you, Mr. Gordon.

Mr. Gordon: Maybe you had better give them to me again, Mr. Grenier.

Mr. Grenier: All right, I will give them to you again.

Mr. Gordon: Okay.

Mr. Grenier: The tenants and the landlords get together and have a hearing, if they desire.

Mr. Chairman: A meeting.

Mr. Grenier: I am sorry; a meeting. If they do not want a meeting, they do not have to have one. If they do not like what the administrator has come out with, then they can have a meeting. If they decide to have a meeting and if the administrator comes down with something they both agree with, end of story. If, on the other hand, the administrator comes down with something that either side does not like, they go to the next step. They can have the full-blown hearing and all the powers of the statute, etc. However, to begin with, to cut through all the nonsense, they simply have a meeting. Strangely enough, we have discovered over the past seven or eight months that an enormous number of problems can be cured and solved at the meeting as opposed to having a full hearing.

Mr. Gordon: I have to agree with Mr. Grenier. He has given a very clear answer. When people are paid so much an hour to be at meetings, you do not have any trouble having meetings. These meetings can go on for ever.

I think there has been a misinterpretation here. I want to know how you are going to engage the public in such a way that it understands a meeting is available? That is all. It is a very simple question. I have not received a clear answer yet. Why not just give me an answer?

Ms. Amaya-Torres: I would like to give Mr. Gordon my idea for solving his problem. Perhaps you can suggest that there could be one sentence on the form on which the landlords and tenants get a notice that says they are allowed to have a meeting if they want one.

Mr. Gordon: Since most tenants are not going to be paid so much an hour to be at meetings, perhaps there can also be some kind of public relations program. I am not in the public relations business, so it might be nice if the ministry were to tell us how it is going to promote the fact that there are going to be meetings and that one has the right to a meeting? You do not even have to tell me that there is not going to be a hearing and that the Statutory Powers Procedure Act is set aside. I will even set that aside. I will not get excited about that.

Mr. Grenier: We have a subcommittee of the Rent Review Advisory Committee, an education process subcommittee. Now that I understand what your question is, that subcommittee has already addressed the problem from the point of view of, "How are the people going to know?" There is a full-blown education subcommittee whose sole job is to make sure that every tenant and every landlord in the province has access to that information.

You can lead a horse to water, but you cannot make him drink. The stuff will be available in libraries and through mailings. It will be available from the landlord and it will be available to the tenants. If they do not know about it, it will be because they have been in South Africa or some other part of the globe. In Ontario they are going to know about it.

Mr. Peters: I will just make the observation in response to the question Mr. Gordon raised that he may find that clause 11(c) of the act covers his concern. It talks about the educational component that is mandatory under the act. In other words, the wording says, "The minister shall." That is the section under which we will embark on the educational campaign for both landlords and tenants.

17:20

Mr. Gordon: I appreciate the answers that were given today. They have all been good answers, but the point I am making, and I think it has been made clearly, is that the public has a right to know. Governments can pass laws, but as a politician I have seen all too often over the years that people do not really understand or know about their rights and have not been informed about them.

When bills are being passed, we always hear: "Oh, do not worry; it is in the bill. Do not worry; the ministry is doing it. Do not worry; there is a subcommittee doing it and taking care of it." In fact, when it all comes down to the wire, it is usually the public who must come back and say, "This is not working."

I am speaking on behalf of the public, the little guy out there, not the guy who is having all this information fed to him. The public does not have executive assistants, limousines or all these perks.

Mr. Grenier: We are all on the side of the angels.

Mr. Chairman: May I make a suggestion, Mr. Gordon?

Mr. Gordon: I would suggest that Mr. Grenier run for politics if he is going to keep interjecting in that manner.

Mr. Chairman: Order, please.

Ms. Caplan: May I have a comment?

Mr. Chairman: Before you do, we are going through an explanation of the amendments that have been made. If you feel the process is not appropriate, there will be an opportunity to make amendments as we go through clause-by-clause consideration. We have not reached that stage yet. We are simply having explanations of the various amendments that have been put forward by the ministry. I suggest we leave section 31 for a moment, and when we get into the clause-by-clause consideration, there will be an opportunity to open up the process, if you feel that is what it needs.

Ms. Caplan: Mr. Gordon has touched on an issue that I think is unique and key to this bill: that is, the mandatory "shall" provision of the minister providing the information. The minister therefore has that responsibility, and it is unique to this bill. It is one of the greatest areas of tenant protection and also protection of the small landlord, who in the past has not had the kind of direction from the previous rent review procedures to know what his rights are. It is one of the key features of this bill that will assist those tenants and those small landlords, particularly those who have not had that information in the past. The minister should be applauded.

Mr. Chairman: What you are saying about section 11 is correct. We are now on amendments to section 31. May we leave section 31 and move to section 32?

Mr. Gordon: May we get on with the bill? You are holding things up.

Mr. Chairman: We are on subsection 32(2).

Mr. Laverty: Subsection 32(2) is another of the amendments in which we are deleting the word "person"--

Mr. Reville: Dispense.

Mr. Laverty: --and inserting the words "landlord and tenant."

Mr. Chairman: Please continue, Mr. Laverty. Order, please.

Mr. Laverty: This amendment is similar to the other two that have already been discussed this afternoon.

Mr. Chairman: Are there any comments on subsection 32(2)? We are on section 33a.

Mr. Laverty: In the initial drafting of the bill, where the minister has issued an order for payment and the landlord or the tenant, as the case may be, does not pay, the enforcement of those orders required a copy of the order to be filed with the Supreme Court or the District Court. During the hearings we have held over the last number of weeks, there were some deputations to the effect that this procedure was somewhat cumbersome in many cases, and the desire was expressed that there be a system whereby the tenant would be able to deduct amounts owed to him from future rents.

We have acceded to that request in subsection 33a(1), and the bill as printed has a parallel section in subsection 33a(2) that relates to the landlord being able to collect in instalments. The purpose of section 33a then is to provide another mechanism whereby amounts owed may be recovered during the course of rent payments.

Mr. Chairman: Is there anything on section 33a? All right, we will move on to subsection 34(1).

Mr. Laverty: Subsection 34(1) has a similar intent. We have added to the courts in which a party may file an order. The initial draft had the Supreme Court and the District Court. We have added the provincial court (civil division), which is the current name of what was formerly referred to as the small claims court. The procedures of the small claims court are regarded as somewhat more accessible than those of the other two courts, and once again we are trying to facilitate the process of the enforcement of orders.

Mr. Chairman: Is there anything further on subsection 34(1)?

Mr. Jackson: If I may go back to section 33a, I have just one question. I assume that this also involves the illegal rent. Is that correct?

Mr. Laverty: The moneys owed could be regarding rebate applications, whole building reviews or whatever other application gives rise to a payment that has to be made from one party to the other party.

Mr. Jackson: So the answer is yes?

Mr. Laverty: It would include applications of orders under section 92.

Mr. Jackson: A section 92 application. That also includes former tenants.

Mr. Laverty: In the case of former tenants it would not make a great deal of sense for the order to relate to a deduction from future rents, simply because future rents were no longer being paid. In that case the order would call for a payment; it would not call for deductions from future rent. If there was a problem in getting the landlord to pay, then section 34 would come into effect and the tenant could go to small claims court and file the order. The small claims court judgement would then presumably occur.

Mr. Jackson: I know we are off the subject. I am going to ask a question just so I am clear on it, because it is the foundation of my question. You are saying that the award for a nonresident tenant is not automatically sent to him. He has to file a claim.

Mr. Laverty: No. In a great many cases the landlord may accede to the order and pay the tenant.

Mr. Jackson: Where he can find them.

Mr. Laverty: However, if he does not, then there is a provision in the statute in section 34 that provides a procedure whereby the tenant in this case could seek a remedy.

Mr. Jackson: Okay. If I may just ask one more question, when it says, "for a specified number of rent payment periods," who determines that?

Mr. Laverty: That would be determined by the administrator in an administrative review, and it would be a matter that the hearing board could look at on appeal.

Mr. Jackson: So it would be by the administrator?

Mr. Laverty: Yes, in the first instance.

Mr. Jackson: Would that be the same for all units that are affected, or would it allow for differentiated pay periods for different tenants? Would it be blanket? Would it be covered by the regulations?

17:30

Mr. Laverty: All right. If you are talking about a rent rebate application under section 92, the application would be made by the tenant of an individual unit, as at present, and therefore the order would cover that unit.

Mr. Jackson: But in the other case where there is a deduction for a reason other than an illegal rent, does it hold for the whole building?

Mr. Laverty: If I understand your question, if you had a building that went to whole building review and if there were 10 units, could the minister order a deduction from rent payment for five of those units and a lump sum payment for the other five?

Mr. Jackson: Yes, that is my question.

Mr. Laverty: I will call on the senior solicitor to respond to that.

Ms. Stratford: I suggest that the minister would have discretion to choose the appropriate method for a particular case.

Mr. Jackson: I am not discrediting the flexibility of this. I am pleased it is there. How fair is it if only certain tenants are represented, and therefore those in attendance could articulate their desire to have the payments spread over a certain period or whatever?

Ms. Stratford: The minister would have the discretion even in the absence of those representations to do that if he felt it was fair. Otherwise, if the parties are interested in having that kind of provision, it would be in their interests to make representations in that regard.

Mr. Jackson: Okay. They have one landlord for a building. He will probably want to work out a payment that is actuarially to his benefit. The tenants may want any number of combinations, but my point is that it is only those who are in attendance.

My final question would be about how it really locks a person into his tenancy if the award says, "Over the next two years you can deduct the following amounts." It literally forces you to stay in that unit for the two years. Or will there be some form of provision whereby, if you cease to be a tenant, you will get the cash equivalent of the balance owing? Are you following my concern here?

Ms. Stratford: The minister would have the discretion, I would suggest, to make an order to provide for deductions from rent, with a condition that if the tenant did move, the remaining sum would become owing as a lump sum within a certain number of days from his leaving. The minister can impose terms and conditions on the order in addition to this provision.

Mr. Laverty: Subsection 33(1).

Mr. Jackson: Would that be covered under regulations?

Mr. Laverty: Subsection 33(1) deals with terms and conditions.

Mr. Jackson: It is the regulations then, right? We are talking about regulations when you are saying that the minister--

Ms. Stratford: We are talking about an element of discretion there. The minister would listen to representations, and if the tenant had a concern--he does not know how long he is going to be in there, but he would like to take advantage of this remedy to deduct from rent--he could suggest the order read that he is entitled to deduct from rent but that if he terminates the tenancy, the landlord would owe the rest as a lump sum.

Mr. Jackson: But that implies that the tenant knows he should ask for that. Ms. Amaya-Torres, you jump in at any point if you have a concern here, but I do not think this works to help the tenant who leaves and then, when he goes to the rent administrator, he says: "I am sorry, your specific order does not state that you get a rebate. You should not have left your unit."

All I am asking is, how helpful are we to a tenant if he is not advised that he should ask for it in that fashion? Is it necessarily the minister's responsibility to advise, in the context of the hearing, something that works specifically to the advantage or the protection of the tenant? If it is not covered in regulations, then I am a little nervous about it.

Ms. Stratford: It would be the clear intention, given that the section says the minister may order that the tenant may recover the amount this way. The amount owing is a lump sum. It may be recovered in this fashion, but it would be the practice of the minister, I would presume, to allow the tenant that election in case he could no longer collect using this method. It would certainly not be the intent that the order be frustrated upon the tenant moving from the unit.

Mr. Jackson: There is a lot about this bill that does not ease my mind. We covered that four minutes ago when it was brought back to my attention, and I am saying that if it is not covered in regulations, we are not assured it will happen.

You agree to make payments. If you go and buy a refrigerator at Eaton's, you agree to make 20 payments. If you move out of province, it does not mean you have to stop making the payments.

I know that housing is no longer a commodity, but I still have to look at the practical examples in the law of commodities and how they work. As long as they are tenants, they are entitled to the rebate; but they are no longer tenants when change their tenancy. Those have to be valid concerns.

Ms. Stratford: They do not lose their right to the rebate; that has to be clear. The order itself will say that the landlord owes the tenant a specified amount. It will go on to say that the tenant may recover the amount in this way by deducting specified sums. If it is not possible to recover the amount in that way, because the tenant has moved, that does not take away the liability of the landlord to pay the original sum that was found to be owing.

Mr. Jackson: My question to Mr. Grenier is, the purpose of this would be, in the instance where the landlord would consider it a hardship to pay a lump sum, to help him spread out the payment. I cannot imagine a tenant saying: "I do not want my \$800 in cash. I would rather take two years to get it in payments."

Mr. Grenier: It could work both ways.

Mr. Jackson: Can you give me an example of how it works the other way?

Mr. Grenier: The reverse side of the coin is where the tenant moves out once he knows he has to pay \$600, for example, for whatever. He decides to move out, and there is no way of collecting. That is where it works against the landlord. Where it works for the landlord is where he says: "I owe you \$600. Why do not we spread this out over the next six payments so that I will deduct \$100 each time?"

Mr. Jackson: In the case with which you have just enlightened me, they would have an order. Then you go to small claims court or the provincial Divisional Court--

Mr. Grenier: I do not think there are very many landlords who will rely on that. Once a tenant who owes you \$600 has gone and you start chasing him, it is going to cost him more than that to get it. From that point of view--

Mr. Jackson: When you have an order in your hand, it is going to cost you--

Mr. Grenier: That is worth nothing. That and 10 cents will get you a cup of coffee.

Mr. Chairman: Where?

Mr. Grenier: Maybe the order is worth something--25 cents, but that is about it.

Mr. Chairman: The clerk has distributed to the committee what was requested yesterday. The Rent Review Advisory Committee subcommittees take note that both Ms. Amaya-Torres and Mr. Laverty are on the chronically depressed committee. Can we move to subsection 52(2)?

Mr. Laverty: You will be pleased to know that the chronically depressed committee will meet this evening.

Mr. Chairman: I am pleased to hear that. It makes me feel better.

Mr. Laverty: Subsection 52(2) is to be--

Interjection.

Mr. Chairman: Order, please. Why do you keep interrupting Mr. Laverty? He will become depressed.

Mr. Laverty: Subsection 52(2) is to be struck out of the act. The initial copy of the bill included the statement:

"Where the rent actually charged for a rental unit as of the actual rent date was for a rental period other than a monthly period, that rent shall be converted in the prescribed manner to an equivalent monthly rent."

17:40

The scheme that was initially contemplated was that the landlord would be responsible for converting, for example, a weekly rent into its monthly equivalent. After considering this further in discussions within the advisory committee, we have decided that the ministry should be responsible for any such conversion and that the landlords should no longer be responsible for it. Since the ministry is now responsible for it and is undertaking it, there is no need for the legal provision in the act. It will be handled as a matter of administration.

Mr. Chairman: Are there any questions on subsection 52(2)?

Mr. Reville: It is important to note for the record that the departure of the House leader for the New Democratic Party had nothing to do with the explanation that was given by Mr. Laverty.

Ms. Caplan: Nor the fact that he might be feeling depressed.

Mr. Reville: He did not say that. He said it was grotesque. I do not know what he was referring to.

Mr. Chairman: Thank you for those comments on subsection 52(2). May we move on to sections 53 and 54, the rent registry?

Mr. Laverty: In the initial act, section 53 read: "This part does not apply to a residential complex, or any part of a residential complex, that is a boarding house or a lodging house unless there has been an order made under the Residential Tenancies Act in respect of the residential complex or any rental unit in the residential complex."

That gave rise to a certain level of concern that roomers, boarders and lodgers would be in large part excluded from the benefit of the rent registry. The intent within this act would be to treat roomers and boarders the same as other tenants. Therefore, in subsection 55(2) we are making a provision that all lodgers and boarders will have the rent on their units recorded in the rent registry.

There is a second amendment, in subsection 54(1). We have added a reference at the end of subsection 54(1) that we may limit the information so furnished in accordance with the prescribed rules and that this is the information that is in the rent registry. The reason for this second amendment is that we wish to ensure that the information given out does not in any way contravene the requirements that will be incorporated in the Freedom of Information and Protection of Privacy Act.

Mr. Jackson: You are limiting information.

Mr. Laverty: If the giving out of the information recorded in the registry were in any way contrary to freedom of information legislation, the information would not be provided by the ministry.

Mr. Jackson: Give me a quick and dirty example of that so that I will understand it. Do you mean a political party or sexual orientation? I want to know what we are talking about.

Mr. Lavery: It may be useful to have David Braund, who is the rent registrar, respond to that question.

Mr. Braund: The answer to that question is--

Mr. Chairman: I am sorry, Mr. Braund. You will have to get to a microphone so that Hansard can pick you up.

Mr. Braund: What the registry is contemplating, and this has been discussed with the advisory committee, is that there are certain implications possible from the freedom of information bill. I understand that this bill is currently before the Legislature and is being studied by another committee. The only implication we see for the registry, which we regard as a public database in which all rent information should be available not only to landlords and tenants but also to all members of the public, is that a very limited amount of personal information might be construed in that way under that piece of legislation if it is enacted, and that is simply the name, address and telephone number of the landlord and tenant involved. The proposed regulation, when it is drafted in final form, is simply to make that exception to the public nature of the information in the rent registry.

Ms. Caplan: That would permit tenants in another building or anyone else to request rental information from a building that is not their own. The concern is that people wanting to gather information perhaps for commercial uses, etc., would be able to find out the rents in other buildings in the same area but would not be able to get the personal information.

Mr. Braund: You have to understand that a request by a person for rent information causes the government to spend money through the use of a very complex database system, so persons requesting information about other rental units than their own will have to pay fees that will be simply on a cost-recovery basis. However, if you are a prospective tenant who wants to move into a building, then you can get the information on that unit for free under the proposed regulation.

Ms. Caplan: That is the same philosophy as the Freedom of Information and Protection of Privacy Act, which says that information is available for free to the individual who wants it for his or her own personal database and so forth, but if a real estate agent, a broker or someone else is gathering the information for other than those types of uses, he or she would then pay the cost of getting that information so that the taxpayers generally would not have to foot the bill for business ventures.

Mr. Braund: That is exactly right.

Mr. Jackson: Basic information would be name, address and telephone number.

Mr. Braund: That is the limited information. The information in the registry as set out in section 56 includes the type of unit involved, the rent--

Mr. Jackson: It is based on matters concerning the unit, not the resident, basically.

Mr. Braund: Exactly.

Mr. Jackson: That information which ties it to the tenant is limited under this clause to the name, address and phone.

Mr. Braund: That is the proposal in the regulation that is now being drafted. The landlord will be able to find out any tenants' names, which I suspect they will know anyway, and the tenant will be able to find out the landlord's name. Other than that, no other person can find out that personal information.

Ms. Caplan: That is for personal privacy protection, and the freedom of information act is consistent with this.

Mr. Reville: My question relates to the amendment to section 53. Roomers and boarders will now be able to find their rents in the registry, with one exception. Mr. Laverty has not yet addressed section 55, which is the partner of this amendment to remove the former section 53.

Mr. Braund: The amendment proposed by the government to section 55 is that those residential complexes that are boarding houses or lodging houses with more than six units will be required to be registered on the same basis as all apartment buildings in the initial phase, and that they will eventually be registered in the second phase if there are fewer than seven units.

Mr. Reville: Can somebody explain the utility of that in view of the fact that roomers and boarders are not protected under the Landlord and Tenant Act?

Mr. Braund: Do you mean the utility of registration at all for them?

Mr. Reville: I guess it is of some use if you are coming in for the first time.

17:50

Ms. Amaya-Torres: The tenants really argued strongly for this amendment. Unless roomers and boarders are covered in the rent registry, there is no effective protection for them against illegal rent increases.

Mr. Reville: There is no effective protection anyway. They can be evicted without notice.

Ms. Amaya-Torres: We cannot address all the issues of security of tenure and the other issues that plague roomers and boarders in a rent review bill, but we wanted to do as much as we could within the parameters of this bill.

Mr. Laverty: As Mr. Reville may know, the subject of security of tenure for roomers, boarders and lodgers is under review by Dale Bairstow on behalf of the ministry. That question has certainly not escaped the notice of the ministry. We look forward to receiving that report in the not too distant future. Then we will consider the appropriate course of action, along with our colleagues in the Ministry of the Attorney General, who are responsible for the Landlord and Tenant Act.

Mr. Braund: May I correct my answer? There were so many different ways that we discussed treating boarding houses and lodging houses, I am afraid to ask.

Mr. Reville: You gave the answer precisely upside down, I think.

Mr. Braund: What is true under the amendment is that boarding houses and lodging houses are involved in the second phase. It does not matter about their size. The first phase involves no lodging houses or boarding houses. The only complication to that is where a residential complex includes both types of units, where it includes some units that are rooms in a boarding house and some true apartment units. In that case, as long as there are at least six units in total, they come in under the first phase.

Mr. Chairman: Subsection 55(1), Mr. Laverty.

Mr. Laverty: Subsection 55(1) adds the phrase "other than a residential complex that is a boarding house or a lodging house." Mr. Braund has just explained that all boarding and lodging houses are to be registered in the second phase, which is covered in subsection 55(2).

Mr. Chairman: Can we move on to clause 55(1)(a) and subsection 55(2) together?

Mr. Laverty: Clause 55(1)(a): In the initial act, all landlords in the province were meant to register by October 1, 1986--that is, those who are in phase one. There are certain obvious problems in landlords meeting that date. In view of that problem, we have deleted the reference to October 1, 1986, and substituted a date 90 days after the date the section comes into force to provide time for landlords to get the necessary information together and to submit it to the ministry.

Subsection 55(2) amends it to deal with the registration of all boarding houses or lodging houses. As I explained when we were on section 53, in the initial act only certain boarding and lodging houses would have been registered. Now it will be a requirement for all of them, and they will all be registered in the second phase, or there will be a requirement for them all to register. We presume they will all comply.

Mr. Chairman: Continuing at our breakneck pace, can we move off section 55?

Mr. Laverty: Subsection 55(3) is an amendment that flows from the earlier amendments with regard to boarding houses or lodging houses. Boarding houses and lodging houses that wish to register before phase 2 may do so. Voluntary registration of such premises will be possible under the act if they do not wish to delay it. Some of them may wish to do so if they have an interest in making an application for rent review. It is a requirement under section 65 of the act to have registered before a rent review application can be considered.

Subsection 56(1) deletes the phrase "on which the rent was last increased, or if the actual rent is the rent that was first charged, the date...." Those words were struck from the section. In reviewing the original drafting, it was decided that this phrase was not necessary and added nothing to the meaning of the section. Therefore, in the interests of simplifying the act, we have deleted it.

Mr. Jackson: What were the exact words that were deleted?

Ms. Caplan: "...on which the rent was last increased, or if the actual rent is the rent that was first charged, the date...."

Mr. Jackson: Section 56?

Ms. Caplan: Paragraph 56(1)3.

Mr. Jackson: I have it.

Mr. Laverty: We are dealing with the wording in the initial draft of Bill 51 on page 23, the words appearing in the fifth, sixth and seventh lines of paragraph 3 of the subsection.

Mr. Jackson: I read it differently and now it has been clarified for me. I am not questioning it. I am just trying to understand the funny squiggle in the column. I just wanted to know the exact words. They do not appear. It is just flagged that they have disappeared.

Mr. Laverty: Yes.

Mr. Jackson: Terrific; I have it.

Mr. Laverty: The amendment to drop the words "cable television" and insert the reference to "cablevision" is for consistency of reference in the act. You may have noticed that under the listing of "services and facilities" in section 1, the reference was to cablevision and we have decided to make the references consistent by changing the reference in section 56.

Mr. Jackson: Were any other items discussed for inclusion?

Ms. Amaya-Torres: Some others were raised in the discussion but none that we thought should be included. What we thought should be included is included here.

Mr. Jackson: I have a case where senior citizens are forced to pay a \$25 charge to have their air conditioning put in and taken out seasonally at Ontario Housing Corp. units. It is a matter of concern that it is mandatory for them to pay that. I do not know whether there is an application in the private sector that where certain services have to be rendered, they have to be rendered through the landlord's agent, a glazier, something like that. I just wondered whether that ever came up. I also had a case where a tenant was forced to use the landlord's glazier to fix a window. The tenant found one who could do it cheaper but he was unable to use that glazier.

Ms. Amaya-Torres: I think that would be under paragraph 4, services.

18:00

Mr. Braund: "Those services, facilities, accommodations and things...." I believe the point Mr. Jackson is making is that the tenant would like to be able to challenge a new charge for a service that had previously been included in the rent which now was the subject of a separate charge. This is a matter that is somewhat different from what has to be registered. If the practice has been in one direction in the past and now is going to change, that would be clear to the whole world. It would be a matter that the tenant could prove to a rent review administrator had changed and that therefore the new separate charge was, in effect, an illegal rent increase. That would be the subject of a rebate application. On the other hand, if the registry tried to keep track of the thousands of different services that landlords provide to tenants, implicitly and expressly, we would not be able to give out any information; we would simply be collecting information.

Mr. Jackson: So that I am clear, we are talking about the filing of an application. We are not necessarily talking about what is contained in the registry.

Mr. Braund: No, we are talking exactly about what is contained in the registry.

Mr. Jackson: You are saying there are limits to the amount of information that would be--I do not want to call them hidden costs because that implies that they are specifically hidden; they are not. When you sign your lease, you are advised of all these matters.

Ms. Caplan: They are included.

Mr. Chairman: Built in.

Mr. Jackson: What you are saying is that the registry has that limitation with respect to those other matters.

Mr. Braund: We asked for the advice of the advisory committee as to which services were so important and so likely to be changed by the landlord in the practice of the past 10 years that we should keep track of them. The commission had a form that had something like 33 boxes to fill in. If you asked the landlord to fill out 33 boxes for every unit, the larger landlords would simply not do it.

Mr. Jackson: Let alone the complications with the ministry having to enter the data and the database required to hold all those fields.

Mr. Braund: Exactly.

Mr. Jackson: I see the practical problems, but we are going to create a register. However, if you are satisfied that the list expresses for public viewing all costs associated with a tenancy, that is sufficient.

Mr. Chairman: Can we move to section 57?

Mr. Lavery: All right. In subsection 57(2) there are two changes. First, in the initial drafting of the bill, the reference was that an application had to be made 90 days from the date the landlord or the tenant received a notice, and it was 90 days exactly. It struck us as somewhat difficult to orchestrate things on the part of the tenants to apply on exactly the right day. Therefore, we are suggesting that we add "not later than," which means you can file it at any time within that 90-day period. That will simplify the process of making the application.

Mr. Chairman: That is quite clear to Mr. Jackson and Ms. Caplan, Mr. Lavery. Are there any questions?

Mr. Lavery: The second change in subsection 57(2) is similar to one we referred to before. We have replaced the receiving of the notice with the giving of the notice, once again because it is much easier to establish by way of evidence the date of the giving.

Amendments similar to the two I have discussed to subsection 57(2) have been proposed for subsection 57(3).

Mr. Chairman: All right. Thank you, Mr. Lavery. See how well you are communicating today?

Mr. Lavery: Yes.

Mr. Chairman: Section 60.

Ms. Caplan: Can you say that the communicating that was done was dialoguing?

Mr. Chairman: Dialoguing today?

Mr. Lavery: We are deleting section 60 as it appears in the initial act and replacing it with the section 60 as printed in the amended version of the act. In subsection 60(1), there are four major reasons for bringing forward an amended scheme. The first is that in the initial act it was not entirely clear what would be the starting point for the calculations involved in section 60. In the new drafting, the starting date for the calculations is "the most recent order made under this act" or the previous acts, or where no order exists, the rent charged on July 29, 1975, which is the initial date of rent review in this province, "or on the earliest date thereafter for which the rent charged is known." The starting point for the calculations in section 60 has been clarified in the redrafted version. That is the first of the problems we wish to solve with the redrafted subsection 60(1).

The second was that from the initial wording, it was not clear whether the landlord could claim both the statutory increase and the costs that could have been brought forward for rent review. The redrafting makes it clear that he can claim one or the other. That is at the bottom, just before subsection 2. You see that either clause (a) or (b), but not both, may be relied on to calculate the rent increase for any one 12-month period. It is clear that you are either claiming the guideline for a year or you are claiming the amount justifiable under rent review.

The third reason for a revised subsection 1 was that it economizes somewhat on the references in the act. In the initial subsection 60(1), there were clauses (a), (b), (c) and (d). We have come up with somewhat briefer wording in clause 60(1)(b) that includes the general area covered by clauses (a), (c) and (d).

Finally, in view of the administrative difficulties of the justification process, we decided that we would use the rules of the Residential Tenancies Act for the full period. You can see in clause (b) that we refer to "an application made under section 126 of the Residential Tenancies Act, had that act been in force during the whole of that period." That is the period back to July 29, 1975, and not to the first date of the Residential Tenancies Act, which was in late 1979.

Further on in clause (b), we have a reference to "the prescribed rules made under this act." This again is a simplification so that we can use a consistent method of evaluating the justification process so that we are not trying to substitute different sets of rules to the justifications that may be coming forward, depending on the date that the landlord might have made the initial application.

18:10

If you wish, I can proceed with subsections 2, 3 and 4.

Subsection 2 picks up the intent of the initial drafting of clause 60(1)(b). It is a reference to changes in services and facilities added or discontinued in the period under rent review.

Subsection 3 clarifies that where the actual rent in July 1985 was \$400 and the amount justified by section 60 is \$395, the amount of \$395 will become the actual--

Mr. Gordon: Mr. Chairman, on a point of order: May I interrupt? Do we have this example in front of us? Did I not receive something? This money you are talking about now, is this something we have in front of us or are you relating something to us?

Mr. Lavery: I am simply giving you an oral example. If the actual rent on July 1, 1985, was \$400 and you are able to justify \$395, then that will become the lawful maximum rent for July 1, 1985, as a result of the process outlined in section 60.

Subsection 4 is the same as subsection 2 of the initial drafting of section 60.

Mr. Gordon: Before we can go any further on this section, we will need some visual examples. This is a very complicated subject. I am sure RRAC spent a lot longer on this section than we just did before they understood it.

Can we say we will come back to this section, and you will bring in examples, starting with subsection 1 and going on to subsections 2, 3 and 4, so we all can understand what you are talking about?

I would not want to go to the press now and make a statement about this section, because I am sure they would not have a clue. It was a very good presentation, which I do not think anybody understood.

Mr. Lavery: We will be pleased to bring forward a further explanation of this section. The one practical difficulty we are faced with right now is that the exact methodology under section 60 is still a matter of discussion before the advisory committee.

We are prepared to put certain principles of section 60 before the committee to understand the drafting of the act. However, I warn you that will not answer all your questions. I hope we will be able to answer them shortly thereafter.

Mr. Gordon: I appreciate your candour. Perhaps we could stand down the discussion of this section in any further depth--because we do not want to hold up the process, Mr. Chairman--and you could come forward with some detailed explanation that even the average citizen out there could understand, let alone those of us who have been wrestling with this bill. I do not want to hold anything up. I am sure Mr. Reville does not want to hold anything up; is that not right?

Mr. Reville: I do not want to hold anything up. That is right.

Mr. Gordon: Do you want him to go through this again until we finally understand it?

Mr. Chairman: Is it the wish of the committee to have the ministry bring some examples of how section 60 applies?

Mr. Gordon: Yes, because RRAC is still wrestling with this.

Mr. Chairman: All right. There is no problem in standing down section 60.

Mr. Gordon: We will come back to that.

Mr. Laverty: Section 62 is amended to insert a two-year limitation on the period in which the minister can correct clerical errors. The purpose of this amendment is that at that point in time the information in the registry will be known with certainty. Otherwise, there would be a degree of uncertainty into the infinite future about the possible existence of clerical errors.

Mr. Gordon: I do not think there is anything difficult about that clause, which we all understand.

Mr. Chairman: No comments on section 62? All right.

Section 64, Mr. Laverty.

Mr. Laverty: In section 64, this is a technical amendment which makes it clear that we are talking about a stay of rent increases. The initial drafting said the landlord shall not collect any increase in the rent charged for any rental unit in the residential complex. That was intended to convey the sense of a stay of the rent increase. However, it was thought that it would be more direct to refer to the stay explicitly, which we have done in the amended section. The policy content of this section reflects the RRAC agreement, page 18, number 8.

Mr. Gordon: Why would a landlord not file a statement under section 55? What do you foresee as the reasons? Obviously, it is in his best interests to do so; therefore, why do you require this?

Mr. Laverty: Under the act, we are trying to encourage landlords to register. One of the ways of encouraging people to register is to put in consequences for not registering. This is one of the consequences we have inserted as a matter of encouraging registration.

Mr. Chairman: I think you could think of a reason a landlord might not want to register.

Mr. Gordon: Perhaps we should not ask Mr. Laverty about this, although I will follow your guidance in this respect. Perhaps we should ask RRAC this was thought to be necessary or why perhaps one side or the other does not think it is necessary.

Mr. Braund: I believe it was the government's suggestion that this provision be put in the bill; so perhaps I could explain. It is simply a matter of leverage. If the encouragements that are provided in part 5 are not successful in convincing the landlord, after a significant public education program, to file by the deadline or at least to come close enough that the ministry might extend time for his or her benefit, then it can be easily seen that it is necessary for the registry to be complete. To make the registry complete, the minister would be required to bring prosecutions against landlords who had failed to register by the deadline.

The government felt that rather than initiating potentially thousands of prosecutions against landlords who perhaps were nothing more than

procrastinators, or in some cases were deliberately trying to avoid the consequences of registration, it would be better to have something to give the landlord a push, but without the sanction of a quasi criminal court being involved as the hammer. This was thought to be a middle step that could be taken, which would not involve a quasi criminal record for the landlord but which would still be a significant incentive if it were initiated by the minister.

No landlord is going to give up his rent increases lightly. The minister would send a notice to all tenants, saying, "You now do not have to pay your rent increases until the landlord obeys the law and registers." But, of course, the tenant should save the money because it is only a stay. It is not a forfeiture of the rent increase or a permanent delay; it is merely a stay.

18:20

Mr. Grenier: The tenor of what Mr. Braund was saying is probably correct. I would put a slightly different face on it, however. The amendment conforms to the RRAC agreement. It was the tenants and landlords who agreed on this provision. The landlords particularly agreed to it, because if the system is to work, it has to work for everybody. If there are those who do not conform to a system on which we have all agreed, then the fairness goes out of it. Therefore, it is in our interests as well to register. We want to make sure that if we are going to start such a system, everybody should conform to it.

The hammer itself may be there, but that was not the objective of the RRAC agreement when we conceived this portion; it was to try to make the system work.

Mr. Cordiano: It would seem to me that this would be a pretty strong deterrent. If you were unable collect your rent with the increase that is due, then the landlord would do everything within his power to comply with the filing with the rent registry. I think that is a pretty strong deterrent.

Mr. Gordon: I agree.

Mr. Reville: Can a landlord appeal all this stuff under section 98?

Mr. Braund: As you can see, this is a matter that is brought on the minister's motion and results in an order. Under section 98, any order of the minister may be appealed to the hearings board.

Mr. Reville: So you are saying the answer is yes?

Mr. Braund: Yes.

Mr. Reville: That would have been shorter, if you had said yes.

Mr. Braund: I could qualify my answer if you want to get into more detail and say that any order of the administrator in the name of the minister is not stayed by an appeal; so the stay of the rent increases will continue under the minister's order until it is lifted by the hearings board, if it disagrees with the minister's order.

Mr. Reville: What happens in section 65, where it prescribes an appeal? Do we have a contradiction here? It refers to an "application made by a landlord or appealed by the landlord therefrom under this act...."

Mr. Braund: Section 65 deals with the situation where the landlord wishes to file an application by the date, which is three months after the registration deadline. After that point, he cannot apply without having registered first. By the same token, he cannot exercise his right of appeal from an order from his own application after that point.

Mr. Lavery: In the phrase "appealed by the landlord therefrom," the key word is "therefrom," which relates back to the application made by the landlord. In this case we are talking about the minister proceeding on his own motion; therefore, there was not an initial application by the landlord, and the right of appeal by the landlord is available to him.

Mr. Reville: If you cannot make an application, how can you appeal an order flowing from that application?

Mr. Braund: Section 65 is not meant to take away the right of a landlord, for example, to appeal the order that results from a tenant's application or from a minister's own motion. It is simply to prevent the landlord from trying to get a higher order than one that has already been issued where he is not in compliance with the legislation.

Mr. Reville: Thank you.

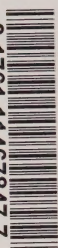
Mr. Chairman: That brings us to the end of section 64, which is an appropriate time to break. I thank Mr. Grenier and Ms. Anaya-Torres for being with us today. I thank the ministry staff for sharing their knowledge base with us yet again. We are adjourned until Monday afternoon.

The committee adjourned at 6:25 p.m.

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